



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 40]
No. 40]

नई दिल्ली, शनिवार, अक्टूबर 2, 1999/आश्विन 10, 1921
NEW DELHI, SATURDAY, OCTOBER, 2, 1999/ASVINA 10, 1921

इस भाग में निम्न पृष्ठ संख्या दी जाती है किसे कि यह भाग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय
आंतरिक सुरक्षा विभाग
(पुनर्वास प्रभाग)

नई दिल्ली, 20 अगस्त, 1999

का.आ. 2775.—विस्थापित व्यक्ति (प्रतिकर एवं पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा पंजाब सरकार के उप सचिव/अवर सचिव को विस्थापित व्यक्ति (प्रतिकर और पुनर्वास) नियमावली, 1955 के नियम 2 के खंड (च) में दी गई परिभाषा के अनुसार पंजाब राज्य के किसी ग्रामीण क्षेत्र में सम्पत्तियां (कृषि-भूमि सहित) और भविष्य के एक भाग के रूप में उक्त अधिनियम के द्वारा अथवा उसके अधीन प्रबंध अधिकारी को सौंपे गए कार्यों के निष्पादन के उद्देश्य से प्रबंध अधिकारी के रूप में नियुक्त करती है।

[सं. 1(1)/96—बंदोबस्त]
फूल सिंह, निदेशक (आर-I)

MINISTRY OF HOME AFFAIRS
(Department of Internal Security)
(Rehabilitation Division)

New Delhi, the 20th August, 1999

S.O. 2775.—In exercise of the powers conferred on me by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints Deputy Secretary/Under Secretary of Government of Punjab as Managing Officer for the purpose of performing the functions assigned to a Managing Officer by or under the said Act in respect of properties (including agri-lands) in the State of Punjab in a rural area as defined in clause (f) of Rule 2 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 and forming part of the compensation pool.

[No. 1(1)/96—Settlement]
PHOOL SINGH, Director (R. I)

नई दिल्ली, 20 अगस्त, 1999

New Delhi, the 20th August, 1999

का.आ. 2776:—विस्थापित व्यक्ति (प्रतिकर एवं पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 34 (2) द्वारा मुझे प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, एस. के. चट्टोपाध्याय, मुख्य बंदोबस्त आयुक्त एतद्वारा पंजाब राज्य सरकार के राजस्व और पुनर्वास विभाग में संयुक्त सचिव (राजस्व) को बंदोबस्त आयुक्त की शक्तियों का प्रयोग करने हुए, क्षतिपूर्ति पूल के भाग के रूप में किसी ग्रामीण क्षेत्र में मकानों, मवेशी शेडों और खाली स्थलों सहित कृषि भूमि और दुकानों के संबंध में उक्त अधिनियम की धारा 23, 24 और 28 के तहत आवश्यक आदेश पारित करने के लिए उक्त अधिनियम के तहत अपनी शक्तियां सौंपता हूं।

[सं. 1(1)/96-बंदोबस्त (ख)]

एस. के. चट्टोपाध्याय, मुख्य बंदोबस्त आयुक्त

New Delhi, the 20th August, 1999

S.O. 2776.—In exercise of the powers conferred on me under Section 34(2) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), I, S. K. Chattopadhyay, Chief Settlement Commissioner do hereby delegate powers to Joint Secretary (Revenue) in the Revenue and Rehabilitation Department of the Government of Punjab State Government exercising the powers of Settlement Commissioner, under Sections 23, 24 and 28 of the said Act for the purpose of passing necessary orders under these Sections in respect of agricultural lands and shops in any rural area including houses, cattle sheds and vacant sites forming part of the compensation pool.

[No. 1(1)/96-Settlement(B)]

S. K. CHATTOPADHYAY, Chief Settlement Commissioner

नई दिल्ली, 20 अगस्त, 1999

का.आ. 2777:—विस्थापित व्यक्ति (प्रतिकर एवं पुनर्वास) अधिनियम, 1954 (1954 का 44), की धारा 34 की उपधारा 2 द्वारा मुझे प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, एस. के. चट्टोपाध्याय, मुख्य बंदोबस्त आयुक्त एतद्वारा पंजाब सरकार के राजस्व और पुनर्वास विभाग में संयुक्त सचिव को बंदोबस्त आयुक्त की शक्तियों का प्रयोग करते हुए, मकानों, मवेशी शेडों और खाली स्थलों जोकि क्षतिपूर्ति पूल का एक भाग है, जिसे प्रशासकीय और वित्तीय प्रबंधों के अधीन पंजाब सरकार को अंतरित किया गया था, सहित किसी ग्रामीण क्षेत्र में कृषि भूमि और दुकानों के संबंध में इन धाराओं के तहत आवश्यक आदेश पारित करने के लिए उक्त अधिनियम के अधीन, बनाए गए नियम 87, 88, 90(1) (क), 90(1) (ख), 99(11), 90(12) और 101 के तहत अपनी शक्तियां सौंपता हूं।

[सं. 1(1)/96-बंदोबस्त (ख)]

एस. के. चट्टोपाध्याय, मुख्य बंदोबस्त आयुक्त

S.O. 2777.—In exercise of the powers conferred on me under Sub-section 2 of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), I, S. K. Chattopadhyay, Chief Settlement Commissioner hereby delegate powers under Rules 87, 88, 90(1)(a), 90(1)(b), 99(11), 90(12) and 101 framed under the said Act to Joint Secretary in the Revenue and Rehabilitation Department of the Government of Punjab exercising the powers of Settlement Commissioner for the purpose of passing necessary orders under these Sections in respect of agricultural lands and shops in any rural area including houses, cattle sheds and vacant sites forming part of the compensation pool which was transferred to the Government of Punjab under Administrative and Financial arrangements.

[No. 1(1)/96-Settlement(B)]

S. K. CHATTOPADHYAY, Chief Settlement Commissioner

नई दिल्ली, 2 सितम्बर, 1999

का.आ. 2778:—केन्द्र सरकार 1980 के अधिनियम 61 तथा 1984 के अधिनियम 35 द्वारा यथा संशोधित लोक परिसर (अवैध कब्जेदारों का निष्कासन) अधिनियम, 1971 (1971 का 40) के खंड 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा पुनर्वास प्रभाग, गृह मंत्रालय में अवर सचिव, श्री खुशहाल चंद को, सरकार का राजपत्रित अधिकारी होने के नाते, उक्त अधिनियम के उद्देश्य हेतु संपदा अधिकारी नियुक्त करती है। ये राष्ट्रीय राजधानी क्षेत्र, दिल्ली में स्थित प्लॉट सं. ई. 51-52, कीर्ति नगर, नई दिल्ली में स्थित लोक परिसरों के संबंध में उक्त अधिनियम के तहत एक संपदा अधिकारी की शक्तियों का प्रयोग तथा कर्तव्यों का निष्पादन करेंगे।

[सं. 1(2)/97-बंदोबस्त]]

फूल सिंह, निदेशक (पुन. I)

New Delhi, the 2nd September, 1999

S.O. 2778.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) as amended by Act 61 of 1980 and Act 35 of 1984, the Central Government hereby appoints Shri Khushal Chand, Under Secretary, Rehabilitation Division, Ministry of Home Affairs, being a Gazetted Officer of the Government, to be an Estate Officer for the purpose of the said Act. He shall exercise the powers and perform the duties of an Estate Officer under the said Act in respect of Public Premises, situated at the Plot No. E-51-52 Kirti Nagar, New Delhi in the National Capital Territory of Delhi.

[No. 1(2)/97-Settlement]

PHOOL SINGH, Director (R. I)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 17 सितम्बर, 1999

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 7 सितम्बर, 1999

स्टाम्प

का.आ. 2779:—केन्द्र सरकार, एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का नियम संख्या XXV) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कर्नाटक सरकार के गृह तथा परिवहन (अपराध) विभाग बंगलौर के अवर सचिव द्वारा दिनांक 19-03-99 को जारी अधिसूचना संख्या एच डी 41 पी.सी.आर. के अन्तर्गत कर्नाटक राज्य सरकार की सहमति से बैंक आफ इंडिया खैरताबाद शाखा, हैदराबाद में मैसर्स किटी स्टील्स लिमिटेड, हैदराबाद तथा अन्यो द्वारा की गयी धोखाधड़ी के मामले में भ्रष्टाचार निवारण अधिनियम 1988 (1988 का नियम 49) की धारा 13 (2) के साथ पठित धारा 13 (1) (घ) तथा भारतीय दंड संहिता की धारा 420, 467, 468, 471 के साथ पठित धारा 120ख के अन्तर्गत और उपर्युक्त वर्णित एक या अनेक अपराधों से संबंधित या संसक्त प्रयत्न, दूष्प्रेरण और षड्यंत्र और उसी संव्यवहार के अनुक्रम में किए गए या उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध या अपराधों के मामले में दिल्ली विशेष पुलिस स्थापना अधिनियम के मदस्यों की शक्तियों का विस्तार सम्पूर्ण कर्नाटक राज्य में करती हैं।

[सं. 228/62/99-ए.बी.डी.-II]

हरि सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSION

(Department of Personnel & Training)

New Delhi, the 17th September, 1999

S.O. 2779.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka under Notification No. HD 41 PCR 99 dated 19-3-99 issued by Under Secretary, Home & Transport Deptt. (Crimes), Government of Karnataka, Bangalore hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment for registration of the criminal case and investigation of offences Under Section 120B read with 420, 467, 468, 471 IPC and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (Act 49 of 1988) pertaining to cheating of Bank of India, Khairatabad Branch, Hyderabad by M/s. Kitty Steels Limited, Hyderabad and others within the whole State of Karnataka, and attempts and abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/62/99-AVD.II]

HARI SINGH, Under Secy.

का.आ. 2780:—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा मै. स्विन लि. कलकत्ता को मात्र पैंतीस लाख अठहत्तर हजार पांच सौ चौतीस रुपये पच्चीस पैसे का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त कंपनी द्वारा 8 जून, 1999 को आवंटित किए गए सैतालीस करोड़ इकहत्तर लाख सैंतीस हजार और नौ सौ रुपये के समग्र मूल्य के सम-मूल्य पर 100-100 रुपये मूल्य के 5649277 से 10420655 तक की विशिष्ट संख्या वाले 17.5% पूर्णतया परिवर्तनीय ऋण-पत्रों पर स्टाम्प शुल्क के कारण प्रभार्य है।

[सं. 43/99-स्टा. फा. सं. 33/53/99-वि.क.]

अपर्णा शर्मा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 7th September, 1999

STAMPS

S.O. 2780.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits M/s. SWIL Limited, Calcutta to pay consolidated stamp duty of rupees thirty five lakhs seventy eight thousand five hundred thirty four and paise twenty five only chargeable on account of stamp duty on 17.5 per cent Fully Convertible Debentures bearing distinctive numbers from 5649277 to 10420655 of rupees one hundred each at par, of the aggregate value of rupees forty seven crore seventy one lakh thirty seven thousand and nine hundred only allotted on 8th June, 1999, by the said company.

[No. 43/99 STAMPS-F. No. 33/53/99-ST]

APARNA SHARMA, Under Secy.

आदेश

नई दिल्ली, 9 सितम्बर, 1999

स्टाम्प

का. आ. 2781:—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा मै. भारतीय लघु औद्योगिक विकास बैंक, मुम्बई को मात्र पचास लाख रु. का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है जो उक्त बैंक द्वारा जारी किए जाने वाले मात्र इक्कीस करोड़ रु. की समग्र मूल्य की 1 से 17 तक की विशिष्ट संख्या वाले प्रोमिजरी नोटों के स्वरूप वाले 12.35% भारतीय ल. औ. वि. बैंक बांड-2009 (9वीं श्रृंखला) तथा मात्र

उनतीस करोड़ रूपए के समग्र मूल्य वाले 1 से 19 तक की विशिष्ट संख्या वाले प्रोमिजरी नोटों के स्वरूप वाले 12.35% सिडबी बांड—2009 (9 वीं श्रृंखला) के धारित प्रमाणपत्रों पर स्टाम्प शुल्क के कारण प्रभाव है तथा केन्द्रीय सरकार 26 जून, 1999 की वित्त मंत्रालय, राजस्व विभाग की अधि. सं. का. भा. 1821 में 26 जून, 1999 से निम्नोक्त संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में “12.30 % पर” शब्दों के अंकों के लिए “12.35 % पर” शब्द और अंक प्रतिस्थापित किए जाएंगे :

[सं. 44/99-स्टाम्प/फा. सं. 33/35/99-वि. क.]

अपर्णा शर्मा, अवर सचिव

ORDER

New Delhi, the 9th September, 1999

STAMPS

S.O. 2781.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the India Stamp Act, 1899 (2 of 1899), the Central Government hereby permits M/s. Small Industries Development Bank of India, Mumbai to pay consolidated stamp duty of rupees fifty lakh only chargeable on account of stamp duty on 12.35 per cent SIDBI BONDS-2009 (9th Series) in the nature of promissory notes bearing distinctive numbers from 1 to 17 aggregating to rupees twenty one crores only and 12.35 per cent SIDBI Bonds—2009 (9th Series) in the nature of Certificate of Holding bearing distinctive numbers from 1 to 19 aggregating to rupees twenty nine crores only to be issued by the said Bank and makes the following amendment in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. S.O. 1821 dated 26th June, 1999 with effect from 26th June, 1999, namely :—

In the said Notification for the words and figures “on 12.30 per cent”, the words and figure “on 12.35 per cent” shall be substituted.

[No. 44/99-STAMPS/F. No. 33/35/99-ST]

APARNA SHARMA, Under Secy.

आदेश

नई दिल्ली, 10 सितम्बर, 1999

स्टाम्प

कां. भा. 2782.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा मै. भारतीय औद्योगिक वित्त निगम लि. नई दिल्ली को मात्र दो करोड़ एक लाख चार हजार आठ सौ नब्बे रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त निगम द्वारा प्रोमिजरी नोटों के रूप में निम्न प्रकार वर्णित बांडों/जमा प्रमाणपत्रों पर स्टाम्प शुल्क के कारण प्रभाव है :—

- (i) 31-7-99 को आवंटित किए गए मात्र सतहत्तर करोड़ तथा पचास लाख रुपये के समग्र मूल्य के 10013485 से 10021234 तक की विशिष्ट संख्या वाले आई एफ सी आई “आग टैप” बंधपत्र ;

- (ii) 22-7-1999 को आवंटित किए गए मात्र एक सौ बीस करोड़ तथा चालीस लाख रुपये के समग्र मूल्य के 29000001 से 2912040 तक की विशिष्ट संख्या वाले आई एफ सी आई बांड (उन्तीसवीं श्रृंखला) ;

- (iii) 15-5-1999 को आवंटित किए गए मात्र छह करोड़ उन्तीस लाख सतहत्तर हजार नौ सौ अठ्ठावन रुपये के समग्र मूल्य की 1082 विशिष्ट संख्या वाले आई एफ सी आई जमा प्रमाणपत्र ।

[सं. 45/99-स्टा. फा. सं. 33/52/99-वि. क.]

अपर्णा शर्मा, अवर सचिव

ORDER

New Delhi, the 10th September, 1999

STAMPS

S.O. 2782.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the India Stamp Act 1899 (2 of 1899), the Central Government hereby permits M/s. The Industrial Finance Corporation of India Limited, New Delhi to pay consolidated stamp duty of rupees two crore one lakh four thousand eight hundred ninety only chargeable on account of the stamp duty on Bonds/Certificate of Deposit in the nature of promissory notes described as :—

- (i) IFCI ‘On Tap’ Bonds bearing distinctive numbers from 10013485 to 10021234 aggregating to rupees seventy seven crore and fifty lakhs only allotted on 31-7-1999 ;
- (ii) IFCI Bonds (XXIX Series) bearing distinctive numbers from 29000001 to 2912040 aggregating to rupees one hundred twenty crore and forty lakhs only allotted on 22-7-1999 ;
- (iii) IFCI Certificate of Deposit bearing distinctive number 1082 aggregating to rupees six crore twenty nine lakh seventy seven thousand nine hundred fifty eight only allotted on 15-5-1999.

by the said Corporation.

[No. 45/99-STAMPS F. No. 33/52/99-ST]

APARNA SHARMA, Under Secy.

(मुख्य आयकर आयुक्त का कार्यालय)

कलकत्ता, 1 सितम्बर, 1999

सं. 4/99—2000

का. भा. 2783.—बोर्ड के आदेश का सं. ए-22011/4/99-एडी-6, दिनांक 13-05-99 के अनुसार मुख्य आयकर आयुक्त मुम्बई क्षेत्र से कलकत्ता में आयकर आयुक्त (अपील)-13, कलकत्ता का चार्ज पुनः विषयान्तर होने के कारण उक्त चार्ज तत्काल प्रभाव में मूजित होना है ।

आयकर अधिनियम 1961 (1961 का 43)

धारा 120 की उप-धारा (1) तथा (2) के द्वारा अ केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली के अध्यापक अधिसूचना सं. 9565 फा. सं. 279/129/93-गार्ड. टी. जे (पार्ट II)-, दिनांक 05-07-1991 तथा एम. ओ. सं. 504, दिनांक 05-07-94 और इन सं. में मुझे प्रदत्त अन्य शक्तियों का प्रयोग करते हुए तथा मे

अधिक्रमण के पूर्व किये गये अथवा करमे के लिए छोड़े गए कृत्यों को छोड़कर इस दिशा में जारी सभी पूर्व अधिसूचनाओं का आंशिक संशोधन तथा अधिक्रमण करते हुए मैं मुख्य आयकर आयुक्त, कलकत्ता एतद्वारा निदेश देता हूँ कि संलग्न अनुसूची के कालम 2 में विनिर्दिष्ट: इस क्षेत्र के आयकर आयुक्त (अपील) ऐसे व्यक्तियों के संबंध में अपने कृत्यों का पालन करेंगे जिनके आयकर अथवा धनकर अथवा दानकर अथवा अतिकर अथवा व्याजकर अथवा व्ययकर अथवा संपदा शुल्क का निर्धारण कालम 3 में विनिर्दिष्ट आयकर प्राधिकारियों/निर्धारण अधिकारियों के द्वारा आयकर अधिनियम, 1961 की धारा 246 की उप-धारा, (2) के खंड (ए) से (एच) तक धनकर अधिनियम, 1957 (1957 का 27) की धारा 23 की उप-धारा (1-ए) के खंड (ए) से (ई) तक, दानकर अधिनियम, 1958 (1958 का 18) की धारा 22(1ए) के खंड (ए) से (ई) तक, कम्पनी (लाभ) अतिकर अधिनियम 1984 (1984 का 7) की धारा 11 की उप-धारा (1),

व्ययकर अधिनियम, 1987 (1987 का 35) की धारा 22 की उप-धारा (1) और संपदा शुल्क अधिनियम, 1953 की धारा 62 में उल्लिखित किन्हीं आदेशों से व्यथित हों।

2. जहाँ एक आयकर सर्कल, सं. आ. आ. का वार्ड, रेंज अथवा विशेष रेंज या उनके अंश इस अधिसूचना के द्वारा एक चार्ज से दूसरे चार्ज में स्थानांतरित हो गए हों, इस अधिसूचना के प्रभावी होने के तुरंत पहले की तिथि से आयकर आयुक्त (अपील) के पास उन आयकर वार्ड/सर्कल/विशेष रेंज अथवा उनके अंश में हुई निर्धारण से उद्भूत अपील संबंधित हो तो इस अधिसूचना के लागू होने की तिथि से उन विशेष वार्ड/सर्कल/विशेष रेंज अथवा उनके अंश स्थानान्तरित किए गए हैं।

यह आदेश इस आदेश की तिथि से प्रभावी होगा।

अनुसूची

आयकर आयुक्त (अपील) का क्षेत्राधिकार

क. सं. आयकर आयुक्त (अपील) का पद नाम

क्षेत्राधिकार

1. आयकर आयुक्त (अपील) — 1, कलकत्ता

- (क) सं. आ. आ. रेंज—1, कलकत्ता के अधीन कार्यरत सभी निर्धारण अधिकारी
- (ख) सं. आ. आ. वि रेंज—II, कल. और/या आयकर सं. आ. आ. वि रेंज—II, कल. के अधीन सभी निर्धारण अधिकारी
- (ग) सं. आ. आ. विशेष रेंज—22, कलकत्ता और या सं. आ. आ. विशेष रेंज—22, कलकत्ता के अधीनस्थ सभी निर्धारण अधिकारी
- (घ) संयुक्त आयकर आयुक्त, विशेष रेंज—7, कलकत्ता एवं/या संयुक्त आयकर आयुक्त, विशेष रेंज—7, कल. के अधीनस्थ सभी निर्धारण अधिकारियों।
- (ङ) संयुक्त आयकर आयुक्त, रेंज—21, कल. के अधीन कार्यरत सभी निर्धारण अधिकारी

2. आयकर आयुक्त (अपील) — 6, कलकत्ता

- (क) के अधीन कार्यरत सभी निर्धारण अधिकारी :—
 - 1. संयुक्त आयकर आयुक्त, रेंज—7, कल.
 - 2. संयुक्त आयकर आयुक्त, रेंज—22, कल.
- (ख) संयुक्त आयकर आयुक्त, विशेष रेंज—1 कलकत्ता तथा/अथवा संयुक्त आयकर आयुक्त, वि. रेंज—1, कलकत्ता के अधीनस्थ सभी निर्धारण अधिकारी।

3. आयकर आयुक्त (अपील) — 10, कलकत्ता

- (क) के अधीन कार्यरत सभी निर्धारण अधिकारी।
 - 1. संयुक्त आयकर आयुक्त, जलपाईगुड़ी रेंज—जलपाईगुड़ी।
 - 2. संयुक्त आयकर आयुक्त, मालिगुड़ी रेंज—मालिगुड़ी।
 - 3. संयुक्त आयकर आयुक्त, रेंज—6 कलकत्ता
- (ख) संयुक्त आयकर आयुक्त विशेष रेंज जलपाईगुड़ी एवं/या अथवा संयुक्त आयकर आयुक्त विशेष रेंज—जलपाईगुड़ी के अधीनस्थ सभी निर्धारण अधिकारी।

- (ग) संयुक्त आयकर आयुक्त विशेष रेंज—10, कलकत्ता तथा / अथवा संयुक्त आयकर आयुक्त, विशेष रेंज—10, कलकत्ता के अधीनस्थ सभी निर्धारण अधिकारी ।
- (घ) संयुक्त आयकर आयुक्त, विशेष रेंज—21, कलकत्ता तथा / या संयुक्त आयकर आयुक्त, विशेष रेंज—21, कलकत्ता के अधीनस्थ सभी निर्धारण अधिकारी।
- (ङ) संयुक्त आयकर आयुक्त, विशेष रेंज—8, कलकत्ता एवं / अथवा संयुक्त आयकर आयुक्त, विशेष रेंज—8, कलकत्ता के अधीनस्थ सभी निर्धारण अधिकारी ।
4. आयकर आयुक्त (अपील)—12, कलकत्ता
- (क) के अधीन कार्यरत सभी निर्धारण अधिकारी
1. संयुक्त आयकर आयुक्त, रेंज—10, कल.
 2. संयुक्त आयकर आयुक्त, रेंज—11, कल.
 3. संयुक्त आयकर आयुक्त, रेंज—20, कल.
 4. संयुक्त आयकर निदेशक (छूट), कलकत्ता ।
 5. संयुक्त आयकर आयुक्त, रेंज—15, कलकत्ता ।
- (ख) संयुक्त आयकर आयुक्त, विशेष रेंज—12, कलकत्ता तथा / या संयुक्त आयकर आयुक्त, विशेष रेंज—12, कलकत्ता के अधीनस्थ सभी निर्धारण अधिकारी
- (ग) केन्द्रीय प्रत्यक्ष कर बोर्ड द्वारा विनिर्दिष्ट मामले कलकत्ता में स्थानांतरित से संबंधित सहायक आयकर आयुक्त (अनुसंधान), सर्कल—2 (1), गुवाहाटी ।
- (घ) संयुक्त आयकर निदेशक (छूट), विशेष रेंज, कलकत्ता तथा या संयुक्त निदेशक (छूट) विशेष रेंज, कल. के अधीनस्थ सभी निर्धारण अधिकारी ।
5. आयकर आयुक्त (अपील) —13, कलकत्ता
- (क) संयुक्त आयकर आयुक्त, रेंज—13, कल. के अधीन कार्यरत सभी निर्धारण अधिकारी ।
- (ख) संयुक्त आयकर आयुक्त, विशेष रेंज —2 कलकत्ता एवं अथवा संयुक्त आयकर आयुक्त विशेष रेंज—2, कलकत्ता के अधीनस्थ सभी निर्धारण अधिकारी ।

[सं. सं. आ./मुख्य./योजना/30/99-2000]

टी. के. दास, मुख्य आयकर आयुक्त

(OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX)

Calcutta, the 1st September, 1999

No. 4/99-2000

S.G. 2783.—Consequent to reediversion of the charge of Commissioner of Income-tax (Appeals)-XIII, Calcutta from the region of the Chief Commissioner of Income-tax, Mumbai to Calcutta Vide Board's Order F.No. A-22011/4/99-AD-VI dated 13-05-1999 the said charge stands created with immediate effect.

In exercise of the powers conferred by Sub-sections (1)&(2) of Section 120 of the Income-tax Act, 1961 (43 of 1961) and the powers conferred on me by the Central Board of Direct Taxes, New Delhi, Vide Notification No. 9565, F.No.279/I29/93ITJ(Pt.-II) dt-. 05-07-1994 and S.O. No. 504 dtd. 05-07-1994 and all other powers enabling me in this behalf on in partial modification and in supersession of all earlier Notifications made in this behalf except in respect of things done or omitted to be done before such supersession, I, Chief Commissioner of Income-tax, Calcutta hereby direct that the Commissioners of Income-tax (Appeals) of this region specified in Column 2 of the Schedule attached hereto, shall perform their functions in respect of such persons assessed to Income-tax or Wealth Tax or Gift Tax or Sur-Tax or Interest Tax or Expenditure Tax or Estate Duty by the Income-tax Authorities/Assessing Officers specified in Column 3 thereof as are aggrieved by any Orders mentioned in clauses (a) to (h) of Sub-section

(2) of Section 246 of the Income-tax Act, 1961, Clauses (a) to (e) of Sub-section (1A) of Section 23 of the Wealth Tax Act, 1957 (27 of 1957) Clauses (a) to (e) of Sub-section (1A) of Section 22 of the Gift Tax Act, 1958 (18 of 1958), Sub-section (1) of Section 11 of the Companies (Profit) Sur-Tax Act, 1984 (7 of 1984), Sub-section (1) of Section 22 of the Expenditure Tax Act, 1987 (35 of 1987) and Section 62 of the Estate Duty Act, 1953.

2. Where an Income-tax Circle, Ward of J.C.I.T. Range or Special Range or part thereof stands transferred by this Notification from one charge to another, appeals arising out of the assessments made in that Income-tax Ward/Circle/Special Range or part thereof and pending immediately before date from which this Notification takes effect, before the Commissioner of Income-tax (Appeals) from whose charge that particular Income-tax Ward/Special Range or part thereof is transferred shall from the date from which this Notification takes effect, be transferred to and dealt with by the Commissioners of Income-tax (Appeals) to whom the said Ward/Circle/Special Range or part thereof is transferred.

3. This order shall take effect from the date of this Order.

SCHEDULE

Jurisdiction of the Commissioner of Income-tax (Appeals)

Sl. No.	Designation of the Commissioner of Income-tax (Appeals)	Jurisdiction
1	2	3
1.	Commissioner of Income-tax (Appeals)-I, Calcutta.	<p>(a) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-1, Calcutta.</p> <p>(b) The Joint Commissioner of Income-tax, Special Range-11 Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-11, Calcutta.</p> <p>(c) The Joint Commissioner of Income-tax, Special Range-22, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-22, Calcutta.</p> <p>(d) The Joint Commissioner of Income-tax, Special Range-7 Calcutta and or all Assessing Officers subordinate to Joint Commissioner of Income-tax, Special Range-7 Calcutta.</p> <p>(e) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-21, Calcutta.</p>
2.	Commissioner of Income-tax (Appeals)-VI, Calcutta.	<p>(a) All the Assessing Officers functioning under:—</p> <p>(1) The Joint Commissioner of Income-tax, Range-7, Calcutta.</p> <p>(2) The Joint Commissioner of Income-tax, Range-22, Calcutta.</p> <p>(b) The Joint Commissioner of Income-tax, Special Range-1, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Spl. Range-1, Calcutta.</p>
3.	Commissioner of Income-tax (Appeals)-X, Calcutta.	<p>(a) All the Assessing Officers functioning under:—</p> <p>(i) The Joint Commissioner of Income-tax, Jalpaiguri Range, Jalpaiguri.</p> <p>(ii) The Joint Commissioner of Income-tax, Siliguri Range, Siliguri.</p>

(iii) The Joint Commissioner of Income-tax, Range-6, Calcutta.

(b) The Joint Commissioner of Income-tax, Special Range-Jalpaiguri and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-Jalpaiguri.

(c) The Joint Commissioner of Income-tax, Special Range-10, Calcutta and/or all Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-10, Calcutta.

(d) The Joint Commissioner of Income-tax, Special Range-21, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Spl. Range-21, Calcutta.

(e) The Joint Commissioner of Income-tax, Special Range 8, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-8, Calcutta. 5

Income-tax

(Appeals)-XII, Calcutta.

(a) All the Assessing Officers functioning under:—

(i) The Joint Commissioner of Income-tax, Range-10, Calcutta.

(ii) The Joint Commissioner of Income-tax, Range-11, Calcutta.

(iii) The Joint Commissioner of Income-tax, Range-20, Calcutta.

(iv) The Joint Director of Income-tax (Exemption), Calcutta.

(v) The Joint Commissioner of Income-tax, Range-15, Calcutta.

(b) The Joint Commissioner of Income-tax, Special Range-12, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-12, Calcutta.

(c) The Assistant Commissioner of Income-tax (Investigation) Circle-II (1), Guwahati in respect of the specific cases transferred by the Central Board of Direct Taxes to Calcutta.

(d) The Joint Director of Income-tax (Exemption) Special Range, Cal. and/or all the Assessing Officers subordinate to the Joint Director (Exemption) Special Range, Cal.

5. Commissioner of Income-tax
(Appeals)-XIII, Calcutta.

(a) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-13, Calcutta.

(b) The Joint Commissioner of Income-tax, special Range-2 Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-2, Calcutta.

[No.AC/HQ/Planning 30/990200]

T. M. DAS, Chief Commissioner of Income-tax

स्वास्थ्य और परिवार कल्याण मंत्रालय

(भारतीय चिकित्सा पद्धति और होम्योपैथी विभाग)

नई दिल्ली, 2, सितम्बर, 1999

का.आ. 2784.—केन्द्रीय सरकार, केन्द्रीय होम्योपैथी परिषद् अधिनियम, 1973 (1973 का 59) की धारा 13 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय होम्योपैथी परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की दूसरी अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :-

उक्त अनुसूची में "गुजरात" शीर्ष के अन्तर्गत सरदार पटेल विश्वविद्यालय से संबंधित क्रम संख्या "5ख" के सामने स्तम्भ संख्यांक 4 में प्रविष्टि "1991 से 1993 तक" के स्थान पर "1991 से आगे" प्रविष्टि रखी जाएगी।

[वी. 27021/12/88-होम्यो.]

कन्वल दास, अधीक्षक सचिव

पाद टिप्पणी: मूल अधिसूचना भारत के राजपत्र के भाग II खंड 1 में का.आ. सं. 76, दिनांक 20

दिसम्बर, 1973 द्वारा प्रकाशित की गई और उसके बाद निम्नलिखित के द्वारा संशोधित की गई :

का.आ. 3496, दिनांक 11-10-1977
 का.आ. 325, दिनांक 04-11-1978
 का.आ. 1517, दिनांक 26-02-1983
 का.आ. 1481, दिनांक 12-03-1983
 का.आ. 3099, दिनांक 21-06-1985
 का.आ. 2048, दिनांक 24-03-1986
 का.आ. 2270, दिनांक 24-05-1986
 का.आ. 2501, दिनांक 01-08-1990
 का.आ. 2448, दिनांक 04-08-1990
 का.आ. 1182, दिनांक 27-03-1991
 का.आ. 1008, दिनांक 08-03-1996
 का.आ. 3124, दिनांक 24-11-1996
 का.आ. 2503, दिनांक 21-08-1990
 का.आ. 710, दिनांक 25-02-1992
 का.आ. 891, दिनांक 05-03-1992
 का.आ. 1210, दिनांक 23-04-1992
 का.आ. 2669, दिनांक 24-09-1993
 का.आ. 978, दिनांक 28-04-1992
 का.आ. 1325, दिनांक 13-05-1994
 का.आ. 2363, दिनांक 24-10-1994
 का.आ. 1859, दिनांक 17-08-1993
 का.आ. 1277, दिनांक 25-03-1996
 का.आ. 93, दिनांक 20-12-1995
 का.आ. 2805, दिनांक 13-09-1996

का.आ. 2806, दिनांक 13-09-1996
 का.आ. 1277, दिनांक 25-03-1996
 का.आ. 699, दिनांक 07-02-1997
 का.आ. 2726, दिनांक 03-10-1997
 का.आ. 3126, दिनांक 03-12-1997
 का.आ. 62 और 63, दिनांक 21-12-1998
 का.आ. 204, दिनांक 05-01-1999
 का.आ. 2475, दिनांक 30-05-1996
 का.आ. 2804, दिनांक 20-09-1995
 का.आ. 2900, दिनांक 28-10-1997
 का.आ. 2900, दिनांक 28-10-1997
 का.आ. 1027(ई), दिनांक 30-11-1998
 का.आ. 361, दिनांक 18-01-1999
 का.आ. 594, दिनांक 25-01-1999

MINISTRY OF HEALTH & FAMILY WELFARE

(Department of ISM & Homoeopathy)

New Delhi, the 2nd September, 1999

S.O.2784.—In exercise of the powers conferred by sub-section (2) of section 13 of the Homoeopathy Central Council Act, 1973 (59 of 1973), the Central Government, after consulting the Central Council of Homoeopathy, hereby makes the following further amendment in the Second Schedule to the said Act, namely:—

In the said Schedule, under the heading "GUJARAT", against serial number 5B relating to Sardar Patel University, in column 4, for the entry, "From 1991 to 1993" the entry "From 1991 onwards" shall be substituted.

[V.27021/12/88-Homoco]

KANWAL DASS, Under Secy

Foot-note :—The principal notification was published in the Gazette of India, Part II, section 1, S.O. No. 76 dated 20th December, 1973 and was subsequently amended vide :

S.O. 3496 dated 11-10-1977
 S.O. 325 dated 04-11-1978
 S.O. 1517 dated 26-02-1983
 S.O. 1481 dated 12-3-1983
 S.O. 3099 dated 21-6-1985
 S.O. 2048 dated 24-3-1986
 S.O. 2270 dated 24-5-1986
 S.O. 2501 dated 1-8-1990
 S.O. 2448 dated 4-8-1990
 S.O. 1182 dated 27-3-1991
 S.O. 2503 dated 21-08-1990

S.O. 710 dated 25-02-1992
 S.O. 891 dated 5-3-1992
 S.O. 1210 dated 23-4-1992
 S.O. 2669 dated 24-9-1993
 S.O. 978 dated 28-4-1992
 S.O. 1325 dated 13-5-1994
 S.O. 2363 dated 24-10-1994
 S.O. 1859 dated 17-8-1993
 S.O. 1277 dated 25-3-1996
 S.O. 1008 dated 8-3-1996
 S.O. 3124 dated 24-11-1996
 S.O. 2806 dated 13-9-1996
 S.O. 1277 dated 25-3-1996
 S.O. 699 dated 7-2-1997
 S.O. 2726 dated 3-10-1997
 S.O. 3126 dated 3-12-1997
 S.O. 62 & 63 dated 21-12-1998
 S.O. 204 dated 5-1-99
 S.O. 93 dated 20-12-1995
 S.O. 2805 dated 13-9-1996
 S.O. 2475 dated 30-5-1996
 S.O. 2804 dated 20-9-1995
 S.O. 2900 dated 28-10-1997
 S.O. 2727 dated 3-10-1997
 S.O. 1027(E) dated 30-11-1998
 S.O. 361 dated 18-1-99
 S.O. 594 dated 25-1-99

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2786.—राजभाषा नियम 1976 (संघ के शासकीय प्रयोग के लिए) के नियम 10 के उप-नियम (2) और (4) के अनुसरण में रेल मंत्रालय (रेलवे बोर्ड), उत्तर रेलवे, डीजल कलपुर्जा कारखाना, पटियाला, दक्षिण-पूर्व रेलवे, मध्य रेलवे और डीजल रेल इंजन कारखाना, वाराणसी के निम्नलिखित कार्यालयों को, जहां 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करता है :—

उत्तर रेलवे

1. रेलवे स्टेशन, दरियापुर
2. रेलवे स्टेशन, उंचाहार
3. रेलवे स्टेशन, श्री कृष्ण नगर
4. रेलवे स्टेशन, दशन नगर
5. रेलवे स्टेशन, चिलविला जं.

डीजल कलपुर्जा कारखाना

6. उप मुख्य कार्मिक अधिकारी कार्यालय
7. उप मुख्य विजली इंजीनियर कार्यालय
8. सहायक सिग्नल एवं दूरसंचार इंजीनियर कार्यालय
9. उप मुख्य इंजीनियर (सिविल) कार्यालय
10. उप मुख्य कार्मिक अधिकारी (सामान्य) कार्यालय
11. मुख्य प्रशासनिक अधिकारी कार्यालय
12. सहायक सुरक्षा आयुक्त/रेल सुरक्षा बल कार्यालय दक्षिण पूर्व रेलवे
13. सेक्शन इंजीनियर (निर्माण) पूर्व, बिलासपुर मंडल
14. सेक्शन इंजीनियर (निर्माण), पश्चिम बिलासपुर मंडल
15. सेक्शन इंजीनियर (जल आपूर्ति) बिलासपुर मंडल
16. जनसंपर्क अधिकारी कार्यालय बिलासपुर मंडल
17. सम्पदा अधिकारी कार्यालय बिलासपुर मंडल
18. सहायक विधि अधिकारी, बिलासपुर मंडल
19. निर्माण निरीक्षक, मुरी, घाट्टा मंडल
20. रेलवे सुरक्षा बल, मुरी, घाट्टा मंडल

मध्य रेलवे

21. वरिष्ठ मंडल विजली इंजी. (कर्मण) मुम्बई (मासिक ओवर हौलिंग) सेड भुसावळ
22. वरिष्ठ क्षेत्र अधिकारी कार्यालय, मुम्बई

गहरी विकास मंत्रालय

(संपदा निदेशालय)

नई दिल्ली, 27 सितम्बर, 1999

का. आ. 2785.—सरकारी निवास स्थान आबंटन (दिल्ली में साधारण पूल) नियम, 1963 के अनु. नि. 317-ख-2 की धारा "ख" के अनुसरण में राष्ट्रपति एतद्वारा 1 जनवरी, 2000 से 31 दिसम्बर, 2001 तक की अवधि को अगले आबंटन वर्ष के रूप में अधिसूचित करते हैं।

[का. सं. 12035/14/99- नीति-II]

रत्न देव साहाय, अपर संपदा-निदेशक (नीति)

MINISTRY OF URBAN DEVELOPMENT
 (Directorate of Estates)

New Delhi, the 27th September, 1999

S.O.2785.—In pursuance of clause (b) of S. R. 317-B-2 of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963, the President hereby notify the period of commencing on the 1st day of January, 2000 and ending on 31st day of December, 2001, as the period of the next Allotment Year.

[F. No. 12035/14/99-Pol.II]

R. D. SAHAY, Addl. Director of Estates (Pol.)

23. सहायक सिगनल व दूरसंचार इंजीनियर, मनमाड
24. सहायक सिगनल व दूरसंचार इंजीनियर कार्यालय, अकोला
25. सहायक बिजली इंजीनियर (क. वि.), मनमाड
26. सहायक बिजली इंजीनियर (क. वि.) कार्यालय, अकोला
27. मंडल बिजली इंजीनियर (क. वि.) कार्यालय, खंडवा
28. रेलवे स्टेशन, निपाड
29. रेलवे स्टेशन, लासलगांव
30. रेलवे स्टेशन, नांदगांव
31. रेलवे स्टेशन, सावदा
32. रेलवे स्टेशन, निभोरा
33. रेलवे स्टेशन, रावेर
34. रेलवे स्टेशन, वरणगांव
35. रेलवे स्टेशन, बोदवड
36. रेलवे स्टेशन, नांदुरा
37. रेलवे स्टेशन, जालम्ब
38. रेलवे स्टेशन, धवतमाल
39. रेलवे स्टेशन, अचलपुर
40. मंडल चिकित्सा अधिकारी, बडनेरा
41. मंडल रेल सुरक्षा बल कार्यालय, भुसावल स्टेशन
42. निरीक्षक रेल सुरक्षा बल कार्यालय, भुसावल लोको
43. निरीक्षक सुरक्षा बल, भुसावल याई
44. निरीक्षक रेल सुरक्षा बल, मनमाड स्टेशन
45. निरीक्षक रेल सुरक्षा बल, खंडवा स्टेशन
46. निरीक्षक रेल सुरक्षा बल, भुसावल स्टोर्स
47. निरीक्षक रेल सुरक्षा बल, बडनेरा स्टेशन
48. निरीक्षक रेल सुरक्षा बल, खंडवा
49. निरीक्षक रेल सुरक्षा बल, चालीसगांव स्टेशन
50. निरीक्षक रेल सुरक्षा बल, भूतिजापुर स्टेशन
51. निरीक्षक रेल सुरक्षा बल, अकोला स्टेशन
52. निरीक्षक रेल सुरक्षा बल, नासिक रोड
53. निरीक्षक रेल सुरक्षा बल, जलगांव
54. रेलवे स्टेशन, झांसी
55. डिपो भंडार (डी.) कार्यालय, झांसी
56. डिपो भंडार (एम. डी.) कार्यालय, झांसी
57. रेलवे स्टेशन, डवरा
58. सहायक इंजीनियर (मीटर लाइन) कार्यालय, ग्वालियर
59. सहायक यांत्रिक इंजीनियर कार्यालय, झांसी
60. मुख्य दूर संचार निरीक्षक कार्यालय, ग्वालियर
61. रेलवे स्टेशन, भुरना
62. रेलवे स्टेशन, आगरा छावनी
63. सहायक इंजीनियर कार्यालय, आगरा छावनी
64. मंडल सिगनल एवं दूरसंचार इंजीनियर कार्यालय, आगरा छावनी
65. रेलवे स्टेशन, राजा की मंडी
66. क्षेत्रीय अधिकारी, कार्यालय बाद
- डीजल रेल इंजन कारखाना
67. जिला भंडार नियंत्रक कार्यालय डी. रे. का., सियालदह
- पूर्व रेलवे
68. सहायक इंजीनियर कार्यालय, मधुपुर
69. रेलवे स्टेशन, जसीडीह
70. रेलवे स्टेशन, बैथनाथ धाम
71. रेलवे स्टेशन, कालू बथान
- पूर्वोत्तर सीमा रेलवे
72. वरिष्ठ सेक्शन इंजीनियर, रेलपथ/किशनगंज
73. सेक्शन इंजीनियर (निर्माण), पूर्णिया
74. मंडल चिकित्सा अधिकारी, पूर्णिया
75. रेलवे स्टेशन, नयाटोला
76. रेलवे स्टेशन, डंडवोरा
77. रेलवे स्टेशन, सौनली
78. रेलवे स्टेशन, सालमारी
79. रेलवे स्टेशन, कुरेठा
80. रेलवे स्टेशन, प्राणपुर रोड
81. रेलवे स्टेशन, लामा
82. रेलवे स्टेशन, खुर्ियाल
83. रेलवे स्टेशन, मुधानी
84. रेलवे स्टेशन, तेगता
85. रेलवे स्टेशन, ठाकुरगंज
86. रेलवे स्टेशन, ब्राजम नगर
87. रेलवे स्टेशन, झोआ
88. रेलवे स्टेशन, गलगलिया
89. रेलवे स्टेशन, मुकुरिया
90. मुख्य स्वास्थ्य निरीक्षक, कटिहार

[सं. द्विती-99/रा. भा.-1/12/1]

डी. पी. लिपाटी, सचिव

रेलवे बोर्ड एवं पदेन अपर सचिव

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 20th September, 1999

S.O. 2786.—In pursuance of sub-Rules (2) and (4) of Rule 10 of the Official Language (Use for the official purposes of the Union) Rules, 1976 the Ministry of Railway (Railway Board) hereby notify the following office of Northern Railway, Diesel Component Works, Patiala, South Eastern Railway, Central Railway, Diesel Locomotive Works Varanasi, Eastern Railway and N.E. Railway where the Staff have acquired the working knowledge of Hindi :—

NORTHERN RAILWAY

1. Railway Station, Dariyapur
2. Railway Station, Unchahar.
3. Railway Station Sri Krishan Nagar.
4. Railway Station, Darshan Nagar.
5. Railway Station, Chilibila Jn.

DIESEL COMPONENTS WORKS

6. Office of the Dy. Chief Personnel Officer.
7. Office of the Dy. Chief Electrical Engg.
8. Office of the Asstt. Signal & Telecommunications Engg.
9. Office of the Dy. Chief Engg. (Civil).
10. Office of the Chief Personnel Officer (General).
11. Office of the Chief Administrative Officer.
12. Office of the Assistant Security Commissioner Railway Protection Force.

SOUTH EASTERN RAILWAY

13. Office of the Section Engineer (Works) East, Bilaspur Division.
14. Office of the Section Engineer (Works) West, Bilaspur Divn.
15. Office of the Section Engineer (Water Supply) Bilaspur Division.
16. Office of the Public Relation Officer Bilaspur Division.
17. Office of the Estate Officer, Bilaspur Division.
18. Office of the Assistant Law Officer, Bilaspur Division.
19. Office of the Inspector of Works, Muri. Adra Division.
20. Office of the Railway Protection Force Muri, Adra Division.

CENTRAL RAILWAY

21. Office of the Sr. Divisional Electrical Engineer (TRS) Bhusawal (MOH) Shed, Bhusawal.
22. Office of the Sr. Area Officer, Bhusawal.
23. Office of the Assistant Signal & Telecommunications Engineer, Manmad.
24. Office of the Asstt. Signal & Telecommunication Engineer, Akola.
25. Office of the Asstt. Elect. Engg. (TD) Manmad.
26. Office of the Asstt. Elect. Engg. (TD), Akola.
27. Office of the Divisional Elect. Engg. (TD), Khandwa.
28. Railway Station, Niphad.
29. Railway Station, Lasalgaon.
30. Railway Station, Nandgaon.
31. Railway Station, Savda.
32. Railway Station, Nimbhora.
33. Railway Station, Raver.
34. Railway Station, Varangaon.
35. Railway Station, Bodwad.
36. Railway Station, Nandura.
37. Railway Station, Jalamb.
38. Railway Station, Yavatmal.
39. Railway Station, Achalpur.
40. Office of the Divisional Medical Officer, Badnera.
41. Inspector (RPF)'s Office, Bhusawal Station.
42. Inspector (RPF)'s Office, Bhusawal Loco.
43. Office of the Inspector Railway Protection Force, Bhusawal Yard.

44. Office of the Inspector, Railway Protection Force, Manmad Station.
45. Office of the Inspector, Railway Protection Force, Khandwa Station.
46. Office of the Inspector, RPF, Bhusawal Stores.
47. Office of the Inspector, RPF, Badnera Station.
48. Office of the Inspector, RPF, Khandwa Station.
49. Office of the Inspector, RPF, Chalisgaon Station.
50. Office of the Inspector, RPF, Murtizapur Station.
51. Office of the Inspector, RPF, Akola Station.
52. Office of the Inspector, RPF, Nasik Road Station.
53. Office of the Inspector, RPF, Jalgaon Station.
54. Railway Station, Jhansi.
55. Depot Store (D), Jhansi.
56. Depot Stores (MD), Jhansi.
57. Railway Station, Dabra.
58. Office of the Assistant Engg. (M.G.), Gwalior.
59. Office of the Assistant Mechanical Engg., Jhansi
60. Office of the Chief Telecommunications Inspector, Gwalior.
61. Railway Station, Muraina.
62. Railway Station, Agra Cantt.
63. Office of the Assistant Engg., Agra Cantt.
64. Office of the Divisional Signal & Tele-communication Engg., Agra Cantt.
65. Railway Station, Raja ki Mandi.
66. Office of the Area Officer, Baad.
- D.L.W.
67. Office of the Controller of Distt. Store DLW/ Sialdah.

EASTERN RAILWAY

68. Office of the Assistant Engg. Madhupur.
69. Railway Station, Jasidih.
70. Railway Station, Baidnath Dham.
71. Railway Station, Kalu Bathan.
- N.F. Railway
72. Office of the Sr. Section Engg./Track/Kishanganj.
73. Office of the Section Engg. (Works)/Purnia
74. Office of the Divisional Medical Office, Purnia
75. Railway Station, Nayatola.
76. Railway Station, Dandkhora
77. Railway Station, Sonaili
78. Railway Station, Salmari
79. Railway Station, Kuetha
80. Railway Station, Prampur Road
81. Railway Station, Labha
82. Railway Station, Khurial
83. Railway Station, Sudhani
84. Railway Station, Telta
85. Railway Station, Thakurganj
86. Railway Station, Ajam Nagar
87. Railway Station, Jhoa
88. Railway Station, Galgalia
89. Railway Station, Mukuria
90. Office of Chief Health Inspector, Katihar.

[No.Hindi-99/OL-1/12/1]

D.P. TRIPATHI, Secy.

Railway Board & Exofficio Addl.

खाद्य और उपभोक्ता मामले मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 20 मितम्बर, 1999

का. आ. 2787.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली "ओटी" श्रृंखला की, अंकक सूचन सहित, अस्वचालित तोलन उपकरण (मेजतल प्रकार) के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का, जिसके ब्रांड का नाम "ओरियन" है और जिसका विनिर्माण मैसर्स ओरियन आटोमेशन सिस्टम्स, सं. 91, के. एच. रोड, के. एस. आर. टी. सी. के सामने, बंगलौर-560 027 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/52 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचन सहित, मेजतल प्रकार का अस्वचालित तोलन उपकरण है। जिसकी अधिकतम क्षमता 10 किलोग्राम और न्यूनतम क्षमता 40 ग्राम है। सत्यापन मापमान अन्तराल (ई) 2 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक, यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 (एन $\leq 10,000$) तक है तथा जिसका "ई" मान 1×10 के, 2×10 के, 5×10 के, का है, के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(26)/97]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

MINISTRY OF FOOD AND CONSUMER AFFAIRS**(Department of Consumer Affairs)**

New Delhi, the 20th September, 1999

S.O. 2787.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic weighing instrument (Table Top Type) with digital indication (hereinafter referred to as the model) 'OT' series with brand name 'ORION' belonging to medium accuracy class (accuracy class III) manufactured by M/s Orion Automation Systems, No 91, K.H Road, Op. K.S.R.T.C. Bangalore-560 027 and which is assigned the approval mark IND/09/99/52;

The model is a non-automatic weighing instrument of table top type with digital indication of maximum capacity of 10 kg and minimum capacity of 40 g and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 2g. The display unit is of Light Emitting Diode (LED) Type. The instrument operates on 230 V, 50 Hertz alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same make, and accuracy class with maximum number of scale interval (n) upto 10,000 ($n \leq 10,000$) and with "e" value of 1×10^k , 2×10^k and 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

[F. No. WM-21(26)/97]

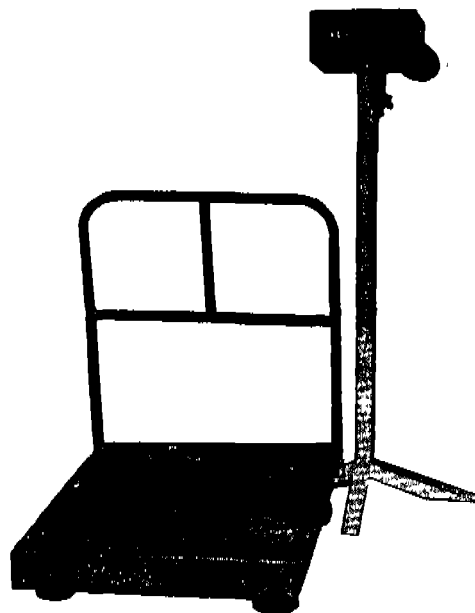
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2788.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली "ओ पी" श्रृंखला की, अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का जिसके ब्रांड का नाम "ओरियन" है का और जिसका विनिर्माण मैसर्स ओरियन आटोमेशन सिस्टम्स, सं. 91, के. एच. रोड, के. एस. आर. टी. सी. के सामने, बंगलौर-560 027 द्वारा किया गया है और जिसे अनुमोदन विह् आई एन डी/09/99/53 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचन सहित, प्लेटफार्म प्रकार का अस्वचालित तोलन उपकरण है। जिसकी अधिकतम क्षमता 100 किलोग्राम और न्यूनतम क्षमता 400 ग्राम है। सत्यापन मापमान अन्तराल (ई) 20 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उम्मी श्रृंखला के उम्मी मेक, और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उम्मी, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 ($\text{एन} \leq 10,000$) तक है तथा जिसका "ई" मान 1×10 के, 2×10 के, और 5×10 के है, के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(26)/97]

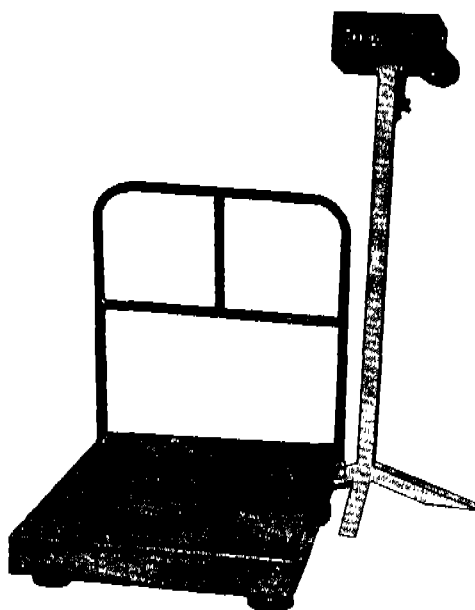
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2788.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic weighing instrument (Platform Type) with digital indication (hereinafter referred to as the model) 'OP' series with brand name 'ORION' belonging to medium accuracy class (accuracy class III) manufactured by M/s Orion Automation Systems, No. 91, K.H. Road, Op. K.S.R.T.C. Bangalore-560 027 and which is assigned the approval mark IND/09/99/53;

The model is a non-automatic weighing instrument of platform type with digital indication of maximum capacity of 10 kg and minimum capacity of 400 g and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 20 g. The display unit is of Light Emitting Diode (LED) Type. The instrument operates on 230 V, 50 Hertz alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same make, and accuracy class with maximum number of scale interval (n) upto 10,000 ($n \leq 10,000$) and with "e" value of 1×10^k , 2×10^k , and 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

[F. No. WM-21(26)/97]

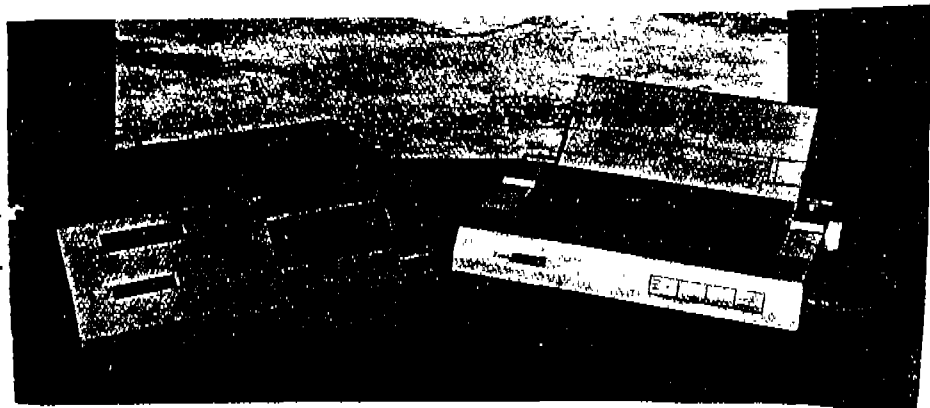
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2789.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उम्मे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली "ओ एम पी" श्रृंखला की, अंकक सूचन सहित, अस्वचालित तोलन उपकरण (हाइब्रिड प्रकार की संपरिवर्तन किट) के माडल जिसे इसमें इसके पश्चात् माडल कहा गया है) का जिसके ब्रांड का नाम "ओरियन" है का और जिसका विनिर्माण मैसर्स ओरियन आटोमेशन सिस्टम्स, सं. 91, के. एच. रोड, के. एस. आर. टी. सी. के सामने, बंगलौर-560 027 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/54 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचन सहित, अस्वचालित तोलन उपकरण संपरिवर्तन किट 1 (हाइब्रिड प्रकार) का है, जिसकी अधिकतम क्षमता 40000 किलोग्राम और न्यूनतम क्षमता 100 किलोग्राम है। सत्यापन मापमान अन्तराल (ई) 5 किलोग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी सेक, और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 (एन $\leq 10,000$) तक है तथा जिसका "ई" मान 1×10 के, 2×10 के और 5×10 के है और "के" घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(26)/97]

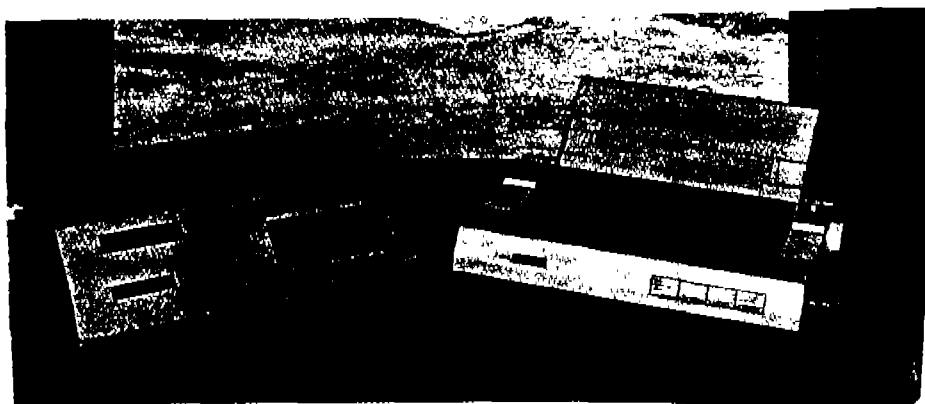
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2789.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the non-automatic weighing instrument (Conversion Kit-Hybrid Type) with digital indication (hereinafter referred to as the model) of 'OMP' series with brand name 'ORION' belonging to medium accuracy class (accuracy class III) manufactured by M/s Orion Automation Systems, No. 91, K.H. Road, Op. K.S.R.T.C., Bangalore-560 027 and which is assigned the approval mark IND/09/99/54;

The model is a non-automatic weighing instrument of conversion kit (hybrid type) with digital indication of maximum capacity of 40,000 kg and minimum capacity of 100 kg and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 5 kg. The display unit is of Light Emitting Diode (LED) Type. The instrument operates on 230 V, 50 Hertz alternate current power supply;



Further, in exercise of the power conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the model shall also cover weighing instruments of same make, and accuracy class with maximum number of scale interval (n) upto 10,000 ($n \leq 10,000$) and with "e" value of 1×10^k , 2×10^k , 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

[F No. WM-21(26)/97]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

क्र. आ. 2790.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली "ओ ई डब्ल्यू" शृंखला की, स्वतः सूचक, अस्वचालित, इलेक्ट्रॉनिक अंकक सूचन सहित अस्वचालित इलेक्ट्रॉनिक तुला चौकी (बहुभार सेल प्रकार की) अस्वचालित तोलन उपकरण के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का, जिसके ब्रांड का नाम "ओरियन" है का और जिसका विनिर्माण मैसर्स ओरियन आटोमेशन सिस्टम्स, सं. 91, के. एच. रोड, के. एस. आर. टी. सी. के सामने, बंगलूर-560 027 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/55 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचन सहित इलेक्ट्रॉनिक तुला चौकी के (बहुभार सेल प्रकार की) अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 30,000 किलोग्राम और न्यूनतम क्षमता 100 किलोग्राम है। सत्यापन मापमान अन्तराल (ई) 5 किलोग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार का है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तिया का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदन माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 (एन \leq 10,000) तक है तथा जिसका "ई" मान 1×10 के, 2×10 के, और 5×10 के और, है "के" धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(26)/97]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2790.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic weighing instrument of Electronic Weigh Bridge (Multi-Loadcell Type) with digital indication (hereinafter referred to as the model) 'OEW' series with brand name "ORION" belonging to medium accuracy class (accuracy class III), manufactured by M/s Orion Automation Systems, No. 91, K.H. Road, Op. K.S.R.T.C. Bangalore-560 027 and which is assigned the approval mark IND/09/99/55;

The model is a non-automatic weighing instrument of electronic weigh bridge (multi-loadcell type) with digital indication of maximum capacity of 30,000 kg and minimum capacity of 100 kg and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 5 kg. The display unit is of Light Emitting Diode (LED) type. The instrument operates on 230 V, 50 Hertz alternate current power supply:



Further, in exercise of the power conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of same make, and accuracy class with maximum number of scale interval (n) upto 10,000 ($n \leq 10,000$) and with "e" value of 1×10^k , 2×10^k , 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

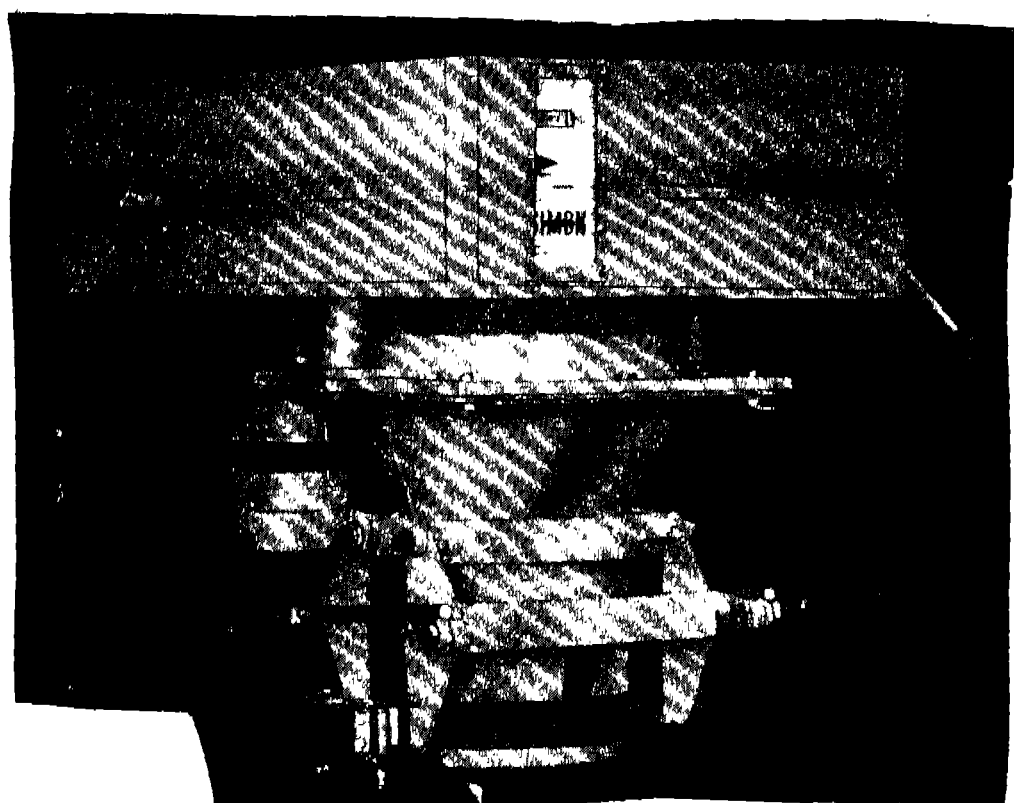
[F. No. WM-21(26)/97]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2791.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करके पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (आकृति में दी गई है) बाट और माप मानक अधिनियम, 1976 (1976 का 10) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग का भव्यता में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, "एजी" श्रृंखला की, स्वचालित, यांत्रिक तोलन मशीन के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का जिसके ब्रांड का नाम "सिमोन" है और जिसका विनिर्माण मैसर्स जसू भाई रिचर्ड सिमोन लिमिटेड, डी-222/2, टीटीसी इंडस्ट्रियल एरिया, एम आई डी सी नेम्स, नवी मुम्बई-400706 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/59 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



यह माडल स्वचालित तोलन बोराबस्त मशीन (यांत्रिक) का है, जिसकी अधिकतम क्षमता 100 किलोग्राम और न्यूनतम क्षमता 10 किलोग्राम है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है। यह मशीन सभी दानेदार पदार्थों जिसमें खाद्यान, चीनी खाद, अनाज, गुटिका और आपूर्ण को तोलने और बोराबस्त के लिए उपयुक्त है। मशीन की क्षमता 2 से 3 बोरा प्रति मिनट है।

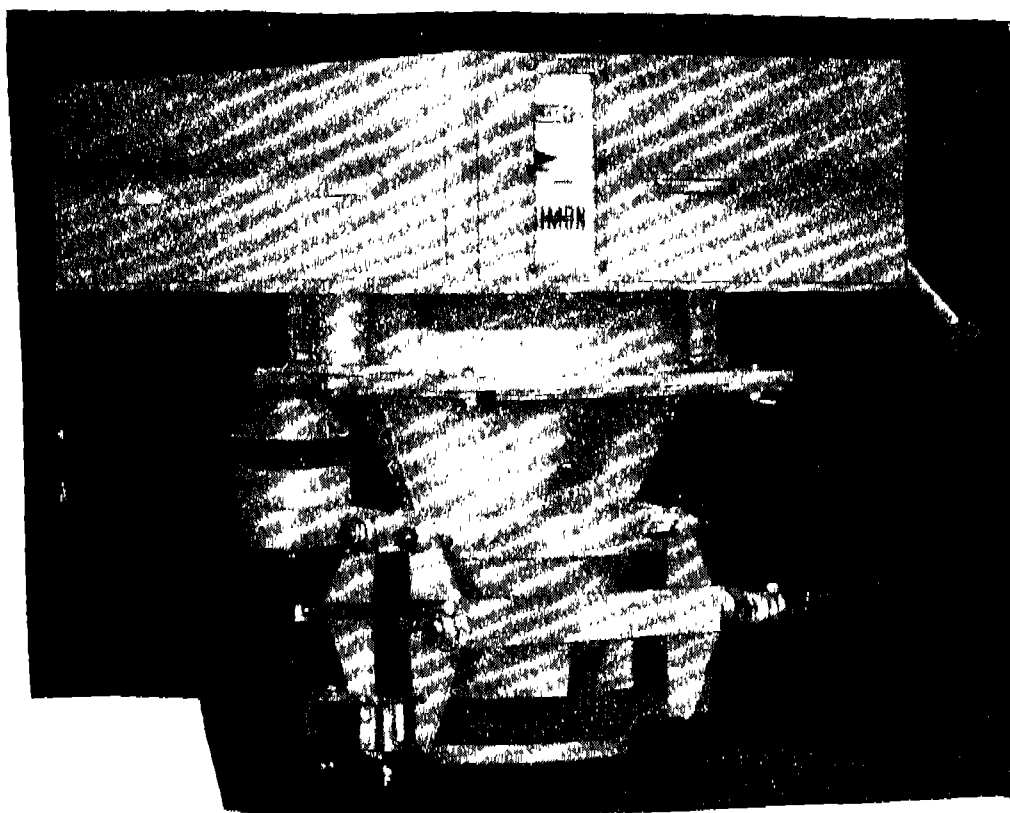
[फा. सं. डब्ल्यू एम-21(1)/98]

पी. ए. कुण्डमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2791.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions,

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of mechanical automatic weighing machine (hereinafter referred to as the model) 'AG' series with brand name 'SIMON' manufactured by M/s Jasubhai Richord Simon Limited, D-222/2, TTC Industrial Area, MIDC Nerul, Navi Mumbai-400 706 and which is assigned the approval mark IND/09/99/59;



The model is an automatic weighing and bagging machine (mechanical) having maximum capacity of 100 kg. and minimum capacity of 10 kg. The machine suitable for weighing and bagging of all granular materials including grains, sugar, fertilisers, cereals, pellets and crumbs. The output of the machine is 2 to 3 bags per minutes. The instrument operates on 230 V, 50 Hertz alternate current power supply

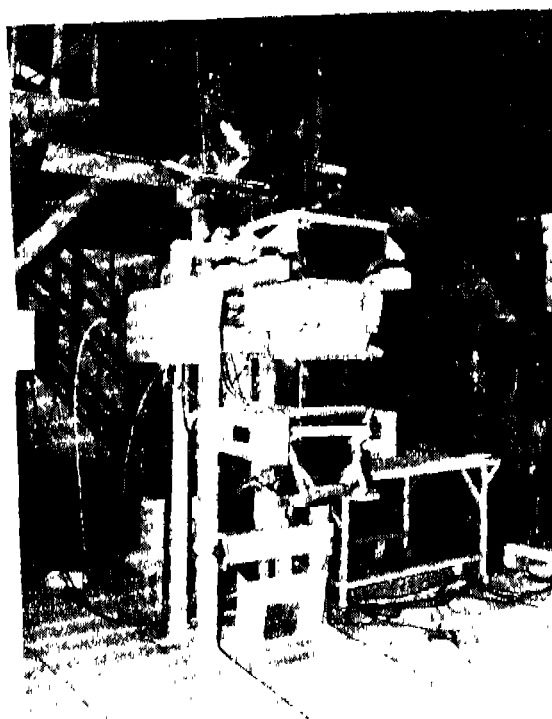
[F. No. WM-21(1)/98]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2792.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (आकृति में दी गई है) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, " एजी ई " श्रृंखला की, स्वतःसंचालित, अस्वचालित, कम्प्यूटैक I या II सहित स्वचालित तोलन मशीन के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का, जिसके ब्रांड का नाम " सिमोन " है और जिसका विनिर्माण मेसर्स जाम्स भाई रिचर्ड सिमोन लिमिटेड, डी- 222/2, टीटीसी इंडस्ट्रियल एरिया, एम आई डी सी नेस्त्व, नवी मुम्बई -400706 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/60 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



यह माडल स्वचालित तोलन बोरावस्त्र मशीन का है, जिसकी अधिकतम क्षमता 100 किलोग्राम और न्यूनतम क्षमता 10 किलोग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। यह मशीन जानवरों के चारे, खनिज अनुपूरक, अनाज, चीनी, खाद, रसायन आदि तोलने और बोरावस्त्र के लिए उपयुक्त है। मशीन की क्षमता 500 बोरा प्रति घंटा है। उपकरण 230 वोल्ट और 50 हर्ट्ज आवृत्ति की पत्यावर्ती धारा विद्युत पदाय पर कार्य करता है।

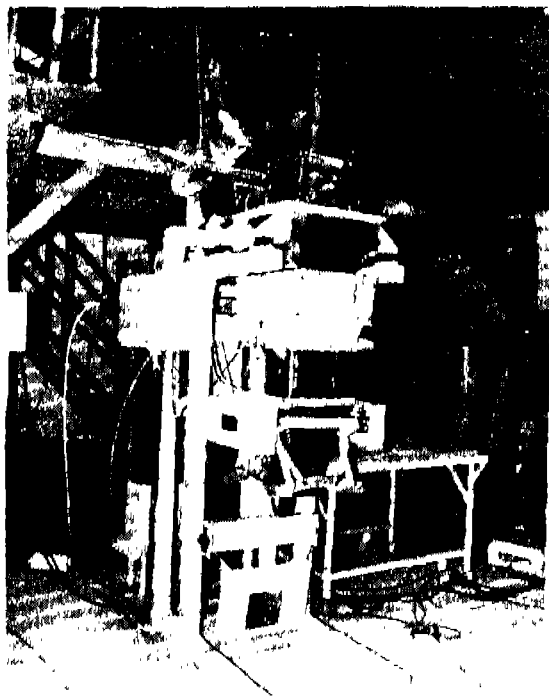
[भा. सं. डब्ल्यू एस-21(1), 98]

पी. ए. कृष्णमूर्ति, निदेशक विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2792.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of automatic weighing machine with computapak I or II (hereinafter referred to as the model) 'AGE' series with brand name "SIMON" manufactured by M/s Jasubhai Richard Simon Limited, D-222/2, TTC Industrial Area, MIDC Nerul, Navi Mumbai-400 706 and which is assigned the approval mark IND/09/99/60;



The model is an automatic weighing and bagging machine having maximum capacity of 100 kg and minimum capacity of 10 kg. The machine is suitable for weighing and bagging of animal feeds, mineral supplements, grains, sugar, fertilisers, chemicals etc. The output of the machine is 500 bags per hour. The display unit is of Light Emitting Diode (LED) type. The instrument operates on 230 V, 50 Hertz alternate current power supply.

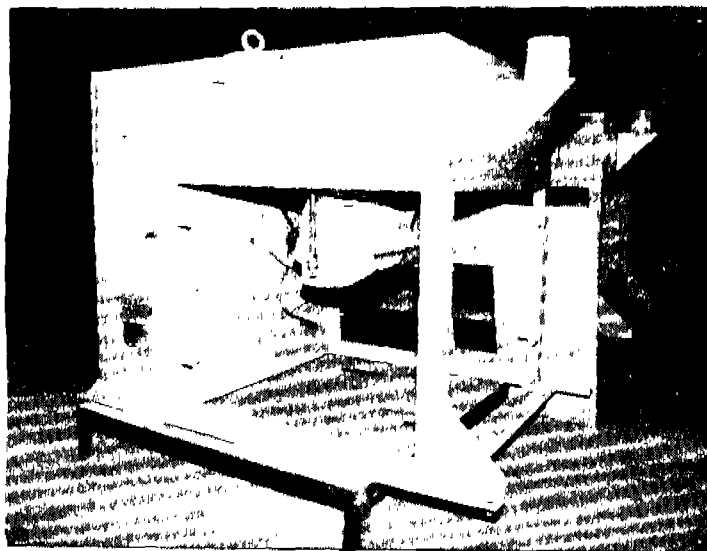
[F. No. WM-21(1)/98]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2793.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (आकृति में दी गई है) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, "ईपीजी" शृंखला की, यांत्रिक स्वचालित तोलन मशीन के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का जिसके ब्रॉड का नाम "सिमोन" है और जिसका विनिर्माण मैसर्स जाम्. भाई रिचर्ड सिमोन लिमिटेड, डी-222/2, टीटीसी इंडस्ट्रियल एरिया, एम आई डी सी नेरुल, नवी मुम्बई-400706 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/61 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



यह माडल स्वचालित तोलन और बोरखस्त मशीन (यांत्रिक) का है, जिसकी अधिकतम क्षमता 100 किलोग्राम और न्यूनतम क्षमता 10 किलोग्राम है। मशीन खाद, खाद्यान, चीनी, अनाज, गुटिका, प्लास्टिक, चावल और बीजों के तोलन और बोरखस्त के लिए उपयुक्त है। मशीन की क्षमता 15 विसर्जन प्रति मिनट है। उपकरण 220 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

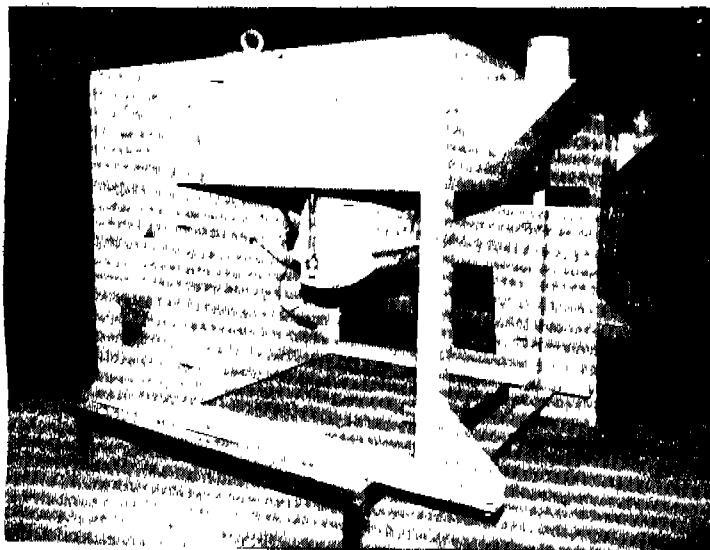
[फा. सं. डब्ल्यू. एम.-21(1)/98]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2793.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (given in the figure), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of mechanical automatic weighing machine (hereinafter referred to as the model) of 'EPG' series with brand name "SIMON" manufactured by M/s Jasubhi Richard Simon Limited, D-222/2, TTC Industrial Area, MIDC Nerul, Navi Mumbai-400 706 and which is assigned the approval mark IND/09/99/61;



The model is an automatic weighing and bagging machine (mechanical) having a maximum capacity of 100 kg and minimum capacity of 10 kg. The machine is suitable for weighing and bagging of fertiliser, grains sugar, cereals, pellets, plastic, rice, and seeds. The output of the machine is 15 discharges per minute. The instrument operates on 220 V, 50 Hertz alternate current power supply.

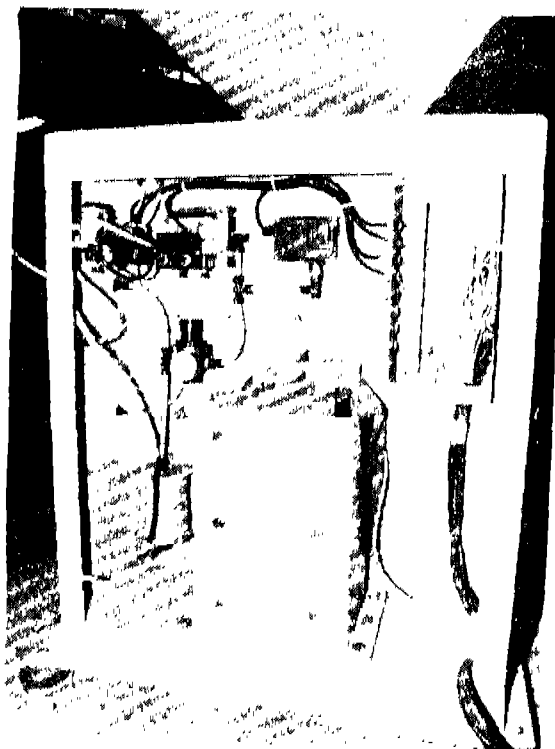
[F No WM-21(1)/98]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2794.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (आकृति में दी गई है) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, "यू बी एम 85" शृंखला की, कम्प्यूटर पैक I और II अंकक नियंत्रक सहित स्वचालित तोलन और बोराबस्त मशीन के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का जिसके ब्रांड का नाम "सिमोन" है और जिसका विनिर्माण मैसर्स जॉसू भाई रिचर्ड सिमोन लिमिटेड, डी-222/2, टीटीसी इंडस्ट्रियल एरिया, एम आई डी सी नेरुल, नवी मुम्बई-400 706 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/62 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



यह माडल स्वचालित तोलन और बोराबस्त मशीन का है, जिसकी अधिकतम क्षमता 100 किलोग्राम और न्यूनतम क्षमता 10 किलोग्राम है। मशीन खाद, नाशक जीव मार, खानपान, डिब्बा बन्द खाद्य, सामग्री और आपूर्ण पिमा हुआ, भोज और रेसेदार उत्पादों के तोलन और बोराबस्त के लिए उपयुक्त है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 220 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

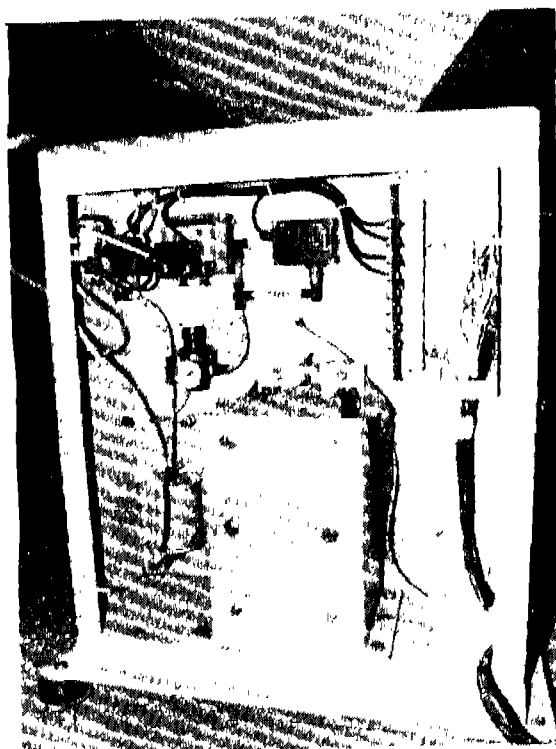
[फा. सं. डब्ल्यू एम-21(1)/98]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2794.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (given in the figure), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of automatic weighing and bagging machine with computapak I or II digital controller (hereinafter referred to as the model) of "UBM 85" series with brand name "SIMON" manufactured by M/s. Jasubhai Richard Simon Limited, D-222/2, TTC Industrial Area, MIDC Nerul, Navi Mumbai-400 706 and which is assigned the approval mark IND/09/99/62;



The model is an automatic weighing and bagging machine having a maximum capacity of 100 kg. and minimum capacity of 10 kg. The machine is suitable for weighing and bagging of fertiliser, pesticides, pet foods, catering, pack food stuffs & crumbs kibbles, meals and fibrous products. The output of the machine is 25 weightment per minute. The display unit is of Light Emitting Diode (LED) Type. The instrument operates on 220 V, 50 Hertz alternate current power supply.

[F. No. WM-21(1)/98]

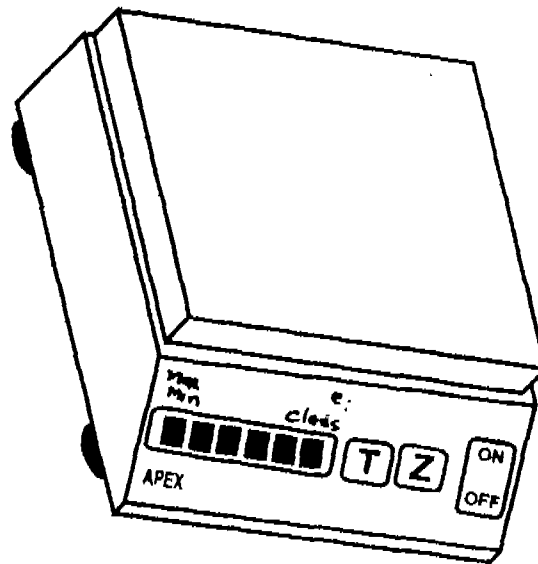
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2795.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करते में परचात यह सम्मान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और याद और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगतार मापन की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा,

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाली "ए पी एस" शृंखला की, अंकक सूचन सहित, अस्थचालित तोलन उपकरण (मेज तल प्रकार) के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का जिसके ब्रांड का नाम "एपेक्स" है और जिसका विनिर्माण मैमर्स फिजिटम् इस्ट्रुमेंट्स, जी-4, कलपी काम्पलेक्स, दानीलिमड़ा क्रॉस रोड, अहमदाबाद-380 028 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/56 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल उच्च यथार्थता वर्ग (यथार्थता वर्ग II) का अंकक सूचन सहित, मेजतल प्रकार के अस्थचालित तोलन उपकरण है। जिसकी अधिकतम क्षमता 10 किलोग्राम और न्यूनतम क्षमता 50 ग्राम है। सत्यापन मापमान अन्तराल (ई) 1 ग्राम है। प्रदर्श इकाई प्रकाश उत्पन्नक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी, डिजाइन और उसी सामग्री से किया जाता है जिसमें अनुसूचित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,00,00 (एन \leq 10,00,00) तक है तथा जिसका "ई" मान 1×10 के, 2×10 के, और 5×10 के, के हैं, घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[का. सं. कानून एम-21(40)/98]

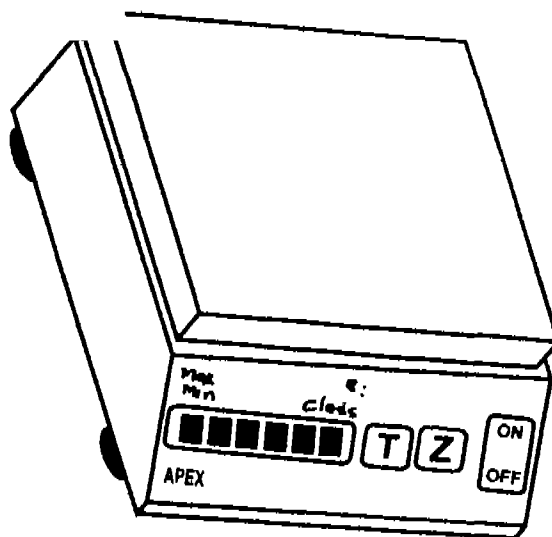
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2795.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the non-automatic weighing instrument (Table Top Type) with digital indication (hereinafter referred to as the model) 'APS' series belonging to high accuracy class (Accuracy class II) and with brand name 'APEX', manufactured by M/s Fijitsu Instruments, G-4, Kalpi Complex, Danilimda Cross Road, Ahmedabad-380 028 and which is assigned the approval mark IND/09/99/56;

The model is a non-automatic weighing instrument of Table Top type with digital indication of maximum capacity of 10 kg and minimum capacity of 50 g and belonging to high accuracy class (accuracy class II). The value of verification scale interval (e) is 1g. The display unit is of Light Emitting Diode (LED) Type. The instrument operates on 230 V, 50 Hertz alternate current power supply.



And further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of same make, and accuracy class with maximum number of scale interval (n) upto 100,000 ($n \leq 100,000$) and with 'e' value of 1×10^k , 2×10^k , and 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured

[F. No. WM-21(40)/98]

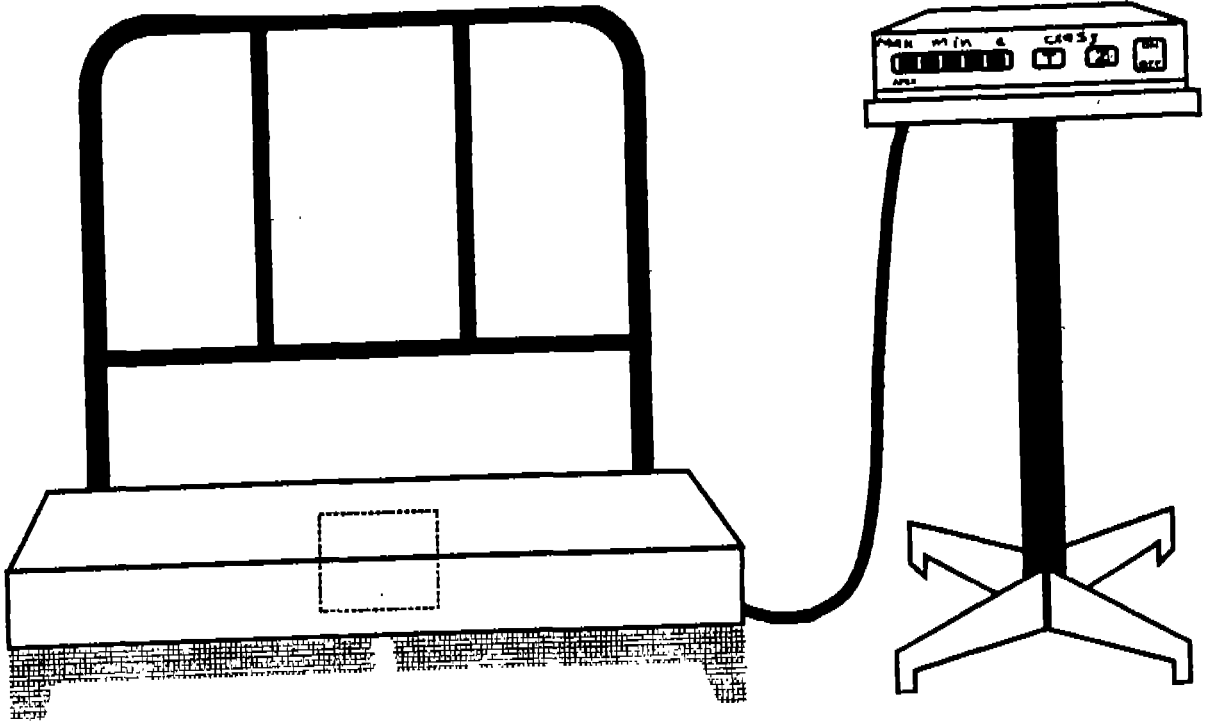
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

क्रा. आ. 2796.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा,

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली "ए पी एस" शृंखला की, स्वतःसूचक, अस्वचालित, इलेक्ट्रानिक अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के माडल (जिसे इसमें इसके पश्चात् माडल कहा गया है) का जिसके ब्रांड का नाम "एपेक्स" है और जिसका विनिर्माण मैसर्स फिजिटसू इस्ट्रूमेंट्स, जी-4, कलपी काम्पलेक्स, दानीलिमड़ा क्रास रोड, अहमदाबाद-380 028 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/57 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का तोलन उपकरण है। जिसकी अधिकतम क्षमता 100 किलोग्राम और न्यूनतम क्षमता 200 ग्राम है। सत्यापन मापमान अन्तराल (ई) 10 ग्राम है। प्रदर्श इकाई प्रकाश उत्पन्नक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, और यथार्थता कार्यकरण वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 ($\text{एन} \leq 10,000$) तक है तथा जिसका "ई" मान 1×10 के, 2×10 के, और 5×10 के, के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(40)/98]

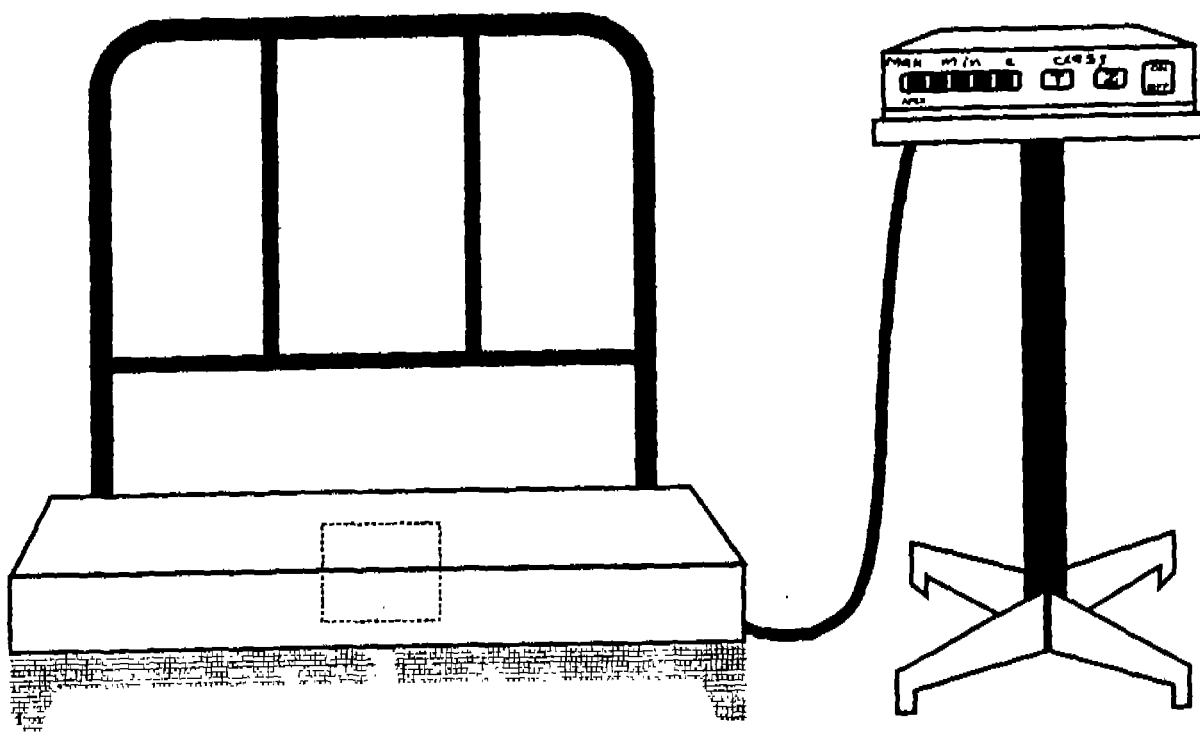
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 7296.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the non-automatic weighing instrument (Platform Type) with digital indication (hereinafter referred to as the Model) of 'APS', series belonging to medium accuracy class (Accuracy class III) and with brand name 'APEX', manufactured by M/s Fijitsu Instruments, G-4, Kalpi Complex, Danilimda Cross Road, Ahmedabad-380 028 and which is assigned the approval mark IND/09/99/57:

The model is a non-automatic weighing instrument of platform type with digital indication of maximum capacity of 100 kg and minimum capacity of 200 g and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 10 g. The display unit is of Light Emitting Diode (LED) Type. The instrument operates on 230 V, 50 Hertz alternate current power supply;



And Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover weighing instrument of same make, and accuracy class with maximum number of scale interval (n) upto 10,000 ($n \leq 10,000$) and with "e" value of 1×10^k , 2×10^k , and 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

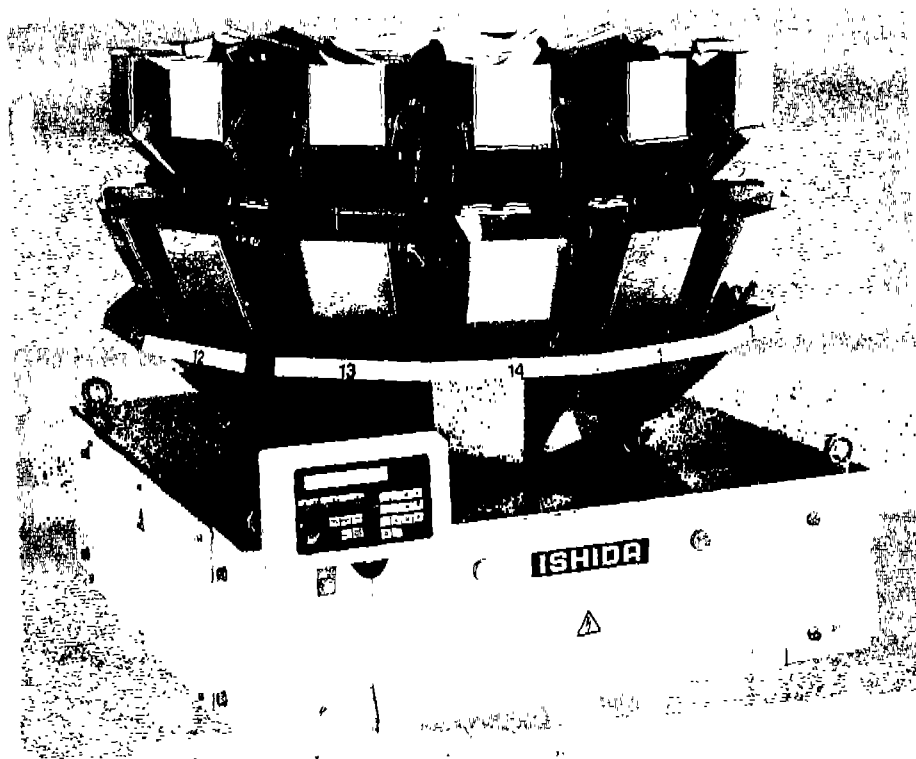
[F. No. WM-21(40)/98]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2797.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट और जिसके साथ नीदरलैंड्स मिनिस्ट्रियट (एन एम आई) द्वारा जारी जांच रिपोर्ट भी है, पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, "सी सी डब्ल्यू-जेड-ई जेड-आर जेड-एक्स एक्स" श्रृंखला की, स्वचालित भारात्मक भराई मशीन के माडल का है (जिसे इसमें इसके पश्चात् माडल कहा गया है) जहां एक्स एक्स तोलन होपर की संख्या का प्रतिनिधित्व करता है। और जिसका विनिर्माण मैसर्स इमहिदा कम्पनी लिमिटेड, 44, साना-चो, शोगोइन, माक्यो-क्यू, कोयोतो, 606-8392 जापान ने किया है और भारत में विक्रय मैसर्स टेटरा पैक निक्रोम (इंडिया) लिमिटेड, 46, डा. अम्बेदकर रोड, पुणे-411 001 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/12/99/58 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



यह माडल स्वचालित भारात्मक भराई मशीन का है, जिसकी अधिकतम तोलन क्षमता 400 ग्राम से 4 किलोग्राम है। न्यूनतम क्षमता 10 ग्राम है। सत्यापन मापमान अन्तराल 200 मिली ग्राम से अधिक या समतुल्य है।

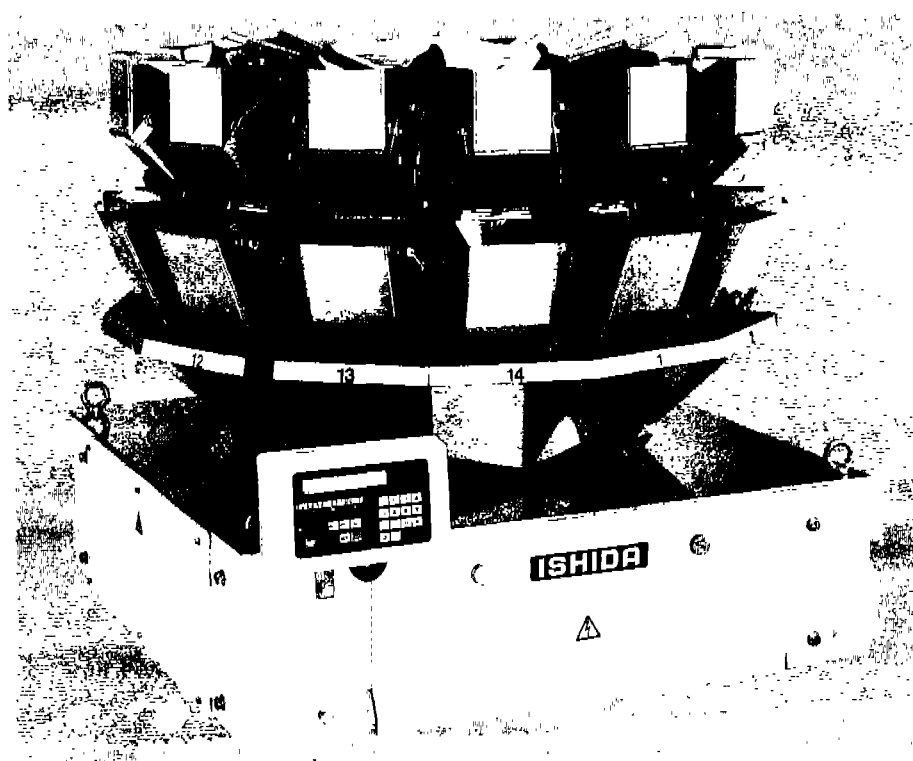
[फा. सं. डब्ल्यू एम-21(96)/98]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2797.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, and also the test report issued by the Netherlands Meetinstituut (NMI), Netherlands is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by the third proviso to sub-section (3) and sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of automatic Gravimetric filling machine of "CCW-Z-EZ-RZ-XX" series, where 'xx' represent the number of weighing hopper (hereinafter referred to as the model) manufactured by M/s. Ishida Company Limited, 44 Sanno-Cho, Shogoin, Sakyo-Ku, Kyoto 606-8392 Japan and marketed in India by M/s Tetra Pak Nichrome (India) Limited, 46, Dr Ambedkar Road, Pune-411 001 and which is assigned the approval mark IND/13/99/58;



The model is an automatic gravimetric filling machine with maximum weighing capacity of range 400g to 4 kg. The minimum capacity is 10 g. The value of verification scale interval shall be greater than or equal to 200 milligram.

[F No WM-21(96)/98]

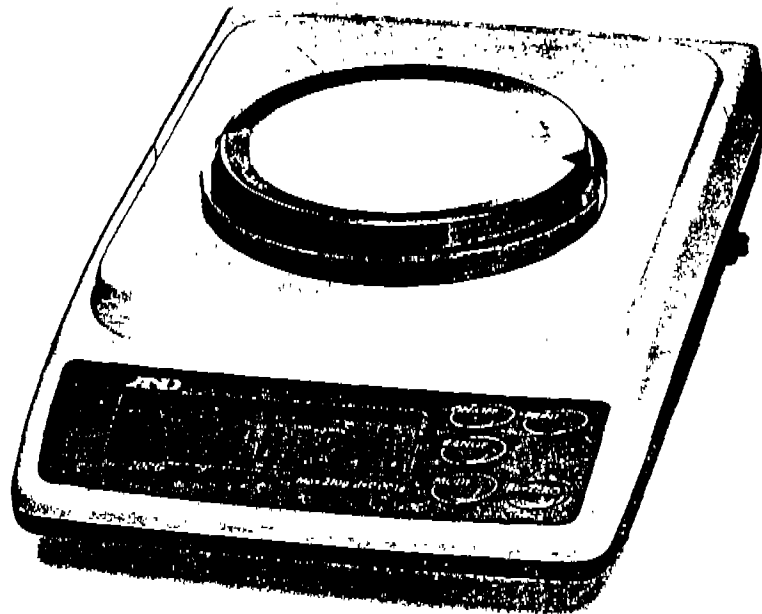
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2798.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उच्च यथार्थता वर्ग (यथार्थता वर्ग I) वाली "एच एफ" श्रृंखला की, अंकक सूचन सहित, अस्वचालित तोलन उपकरण के माडल का, जिसके व्यापार का नाम एंड कम्पनी, जापान इलेक्ट्रॉनिक सिस्टम है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैसर्स इलेक्ट्रॉनिक सिस्टम, 84, विवेकानन्द पुरी, सराय रोहिला के निकट, दिल्ली-110007 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/30 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल विशेष यथार्थता वर्ग (यथार्थता वर्ग I) का अंकक सूचन सहित अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 2100 ग्राम और न्यूनतम क्षमता 1 ग्राम है। सत्यापन मापमान अन्तराल (ई) 10 मिलीग्राम है। प्रदर्श इकाई द्रव क्रिस्टल प्रदर्श (एल सी डी) प्रकार का है। उपकरण 220 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक, और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाईन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 50,000 (एन \leq 50,000) से अधिक या उसके बराबर है तथा जिसका "ई" मान 1×10 के, 2×10 के, 5×10 के, है, के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(135)/97]

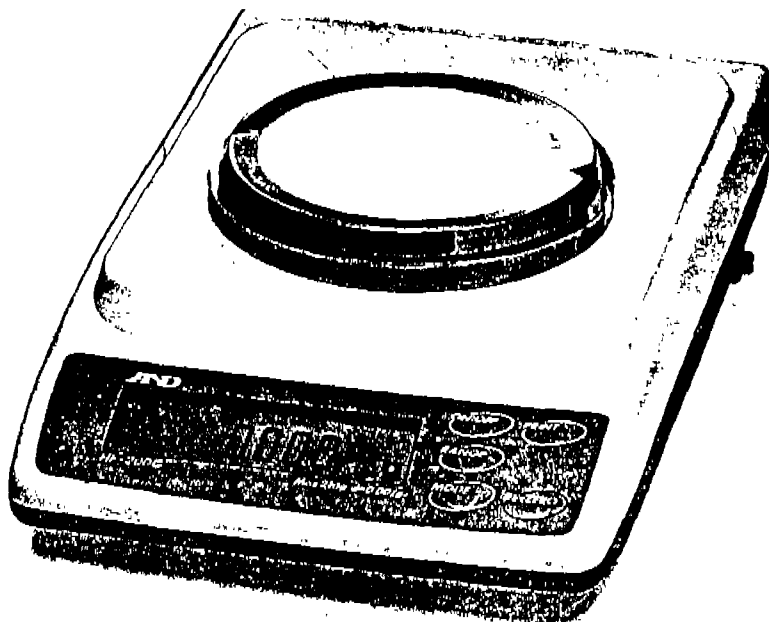
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O.2798.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the non-automatic weighing instrument (Tabletop Type) with digital indication and with the trade name "And Company, Japan, Electronic System" (hereinafter referred to as the Model) of 'HF', series belonging to special accuracy class (Accuracy class I) manufactured by M/s. Electronic System, 84, Vivekanand Puri, Near Sarai Rohilla, Delhi-110 007 and which is assigned the approval mark IND/09/99/30;

The model is a non-automatic weighing instrument with digital indication of maximum capacity of 2100 g and minimum capacity of 1 g and belonging to special accuracy class (accuracy class I). The value of verification scale interval (e) is 10 mg. The display unit is of Liquid Crystal Display (LCD) Type. The instrument operates on 220 V, 50 Hertz alternate current power supply:



And further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover weighing instruments of same make, and accuracy class with minimum number of scale interval (n) more than or equal to 50,000 ($n \geq 50,000$) and with "e" value of 1×10^k , 2×10^k , 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

[F No. WM-21(135)/97]

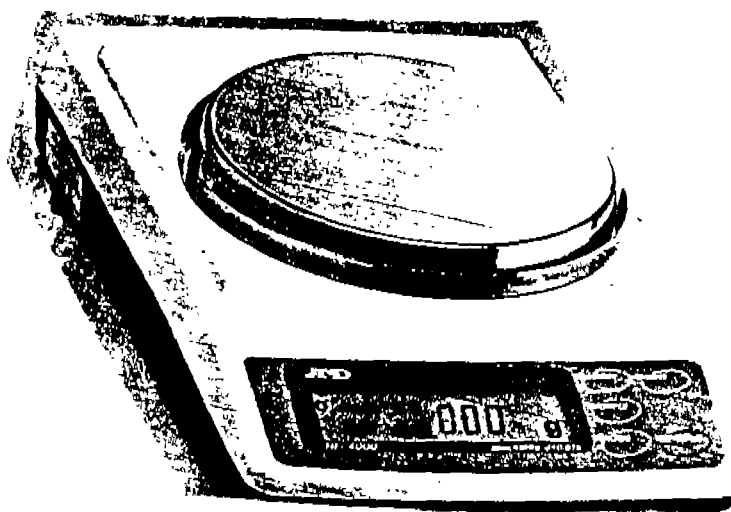
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 20 सितम्बर, 1999

का. आ. 2799.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा,

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उच्च यथार्थता वर्ग (वर्ग II यथार्थता) वाली "एच एफ" श्रृंखला की, स्वतः सूचक, अस्वचालित अंकक सूचक सहित, अस्वचालित तोलन उपकरण के माडल का, जिमके व्यापार का नाम "एंड कम्पनी, जापान इलेक्ट्रॉनिक सिस्टम" है (जिमे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैमर्म इलेक्ट्रॉनिक सिस्टम, 84, विवेकानन्द पुरी, सराय रोहिला के निकट, दिल्ली-110007 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/31 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल उच्च यथार्थता वर्ग (यथार्थता वर्ग II) का अंकक सूचन सहित अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 600 ग्राम/3100 ग्राम दोहरी रेंज और न्यूनतम क्षमता 200 मिलीग्राम/5 ग्राम है। स्थापन मापमान अन्तराल (ई) 10 मिलीग्राम/100 मिलीग्राम है। प्रदर्श इकाई द्रव क्रिस्टल प्रदर्श (एल सी डी) प्रकार का है। उपकरण 220 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मॉक, यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिमका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिमके स्थापन मापमान का अन्तराल (एन) की अधिकतम संख्या 100,000 ($\text{एन} \leq 100,000$) से तक है तथा जिसका "ई" मान 1×10 के, 2×10 के और 5×10 के, है के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(135)/97]

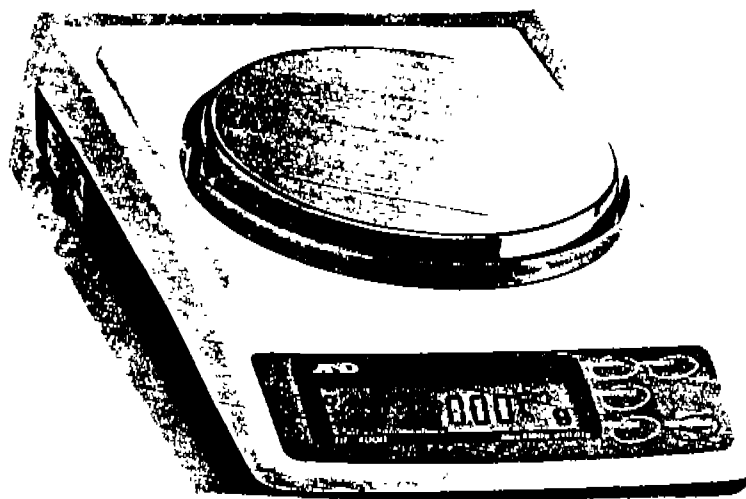
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th September, 1999

S.O. 2799.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top Type) with digital indication and with the trade name "And Company, Japan, Electronic System" (hereinafter referred to as the Model) of 'HF', series belonging to high accuracy class (Accuracy class II) manufactured by M/s Electronic System, 84, Vivekanand Puri, Near Sarai Rohilla, Delhi-110 007 and which is assigned the approval mark IND/09/99/31;

The model is a non-automatic weighing instrument with digital indication of maximum capacity 600 g/ 3100 g (Dule Range) and minimum capacity of 200mg/5 g and belonging to high accuracy class (accuracy class II). The value of verification scale interval (e) is 10 mg./100mg. The display unit is of Liquid Crystal Display (LCD) Type. The instrument operates on 220 V, 50 Hertz alternate current power supply;



And Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of same make, and accuracy class with maximum number of scale interval (n) upto 100,000 ($n \leq 100,000$) and with "c" value of 1×10^k , 2×10^k , and 5×10^k , being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

[F. No WM-21(135)/97]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

आदेश

नई दिल्ली, 21 सितम्बर, 1999

का. 2800.—केन्द्रीय सरकार, बाट और माप मानक (साधारण) नियम, 1987 के नियम 18, नियम 19 और नियम 20 के साथ पठित बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फेस्टो मेजरिंग इंडस्ट्रीज लिमिटेड, लुधियाना-141001 को निम्नलिखित बाटों और मापों का, जो उक्त अधिनियम के द्वारा या उसके अधीन स्थापित मानकों के अनुरूप नहीं हैं, अनन्य रूप से निर्यात के प्रयोजन के लिए, इस आदेश के प्रकाशन की तारीख से एक वर्ष की अवधि के लिए विनिर्माण करने की अनुमति प्रदान करती है अर्थात् :-

- | | | |
|----|------------------------------|--|
| 30 | (i) इस्पात का माप-फीता | 10 मीटर (33 फिट), 15 मीटर (50 फिट), 20 मीटर (66 फिट), 25 मीटर (82 फिट), मीटर (100 फिट) और 50 मीटर (164 फिट); |
| 30 | (ii) फाइबर ग्लास का माप-फीता | 30 मीटर (100 फिट), 50 मीटर (164 फिट), 100 मीटर (328 फिट); |
| 30 | (iii) धातु का माप-फीता | 10 मीटर (33 फिट), 15 मीटर (50 फिट), 20 मीटर (66 फिट), 25 मीटर (82 फिट), मीटर (100 फिट) और 50 मीटर (164 फिट)। |

2. उपरोक्त बाट और माप के विनिर्माण की अनुमति अनन्य रूप से निर्यात के प्रयोजन के लिए निम्नलिखित अतिरिक्त शर्तों के अध्वधीन होगी, अर्थात् :-

- (1) भारत के राज्य क्षेत्र के भीतर कोई भी अमानक बाट और माप का विक्रय या अन्यथा वितरण नहीं किया जाएगा;
- (2) प्रत्येक अमानक बाट और माप के बाह्य आवरण पर यह घोषणा होगी कि वह "केवल निर्यात के प्रयोजन के लिए है";
- (3) फर्म कलेंडर वर्ष के अंत में केन्द्रीय सरकार को एक विवरणी प्रस्तुत करेगी जिसमें उसके द्वारा निर्यात किए गए अमानक बाट और माप की मात्रा और उन व्यक्तियों की विशिष्टियां होंगी जिन्हें ऐसा निर्यात किया गया है; और
- (4) फर्म, उसके द्वारा विनिर्मित अमानक बाट और माप की संख्या, उसके द्वारा निर्यात किए गए अमानक बाट और माप की संख्या और स्टॉक में या उत्पादन के अन्तर्गत अमानक बाट और माप की संख्या का मासिक अभिलेख रखेगी। ऐसे रखे गए अभिलेख केन्द्रीय सरकार द्वारा इम निमित्त प्राधिकृत किसी अधिकारी के द्वारा, निरीक्षण के लिए खुले रहेंगे।

[फा. सं. डब्ल्यू एम 20 (3)/99]

राजीव श्रीवास्तव, अतिरिक्त सचिव

ORDER

New Delhi, the 21st September, 1999

S.O. 2800. — In exercise of the powers conferred by the proviso to section 22 of the Standards of Weights and Measures Act, 1976 (60 of 1976) read with rules 18, 19 and 20 of the Standards of Weights and Measures (General) Rules, 1987, the Central Government hereby permits M/s Festo Measuring Industries Ltd., Ludhiana-141001 to manufacture the following weights and measures, not conforming to the standards established by or under the said Act, exclusively for the purposes of export, for a period of one year from the date of publication of this Order, namely :—

- (i) Steel measuring tapes 10m (33 ft), 15m (50 ft), 20m (66 ft), 25m (82 ft), 30m (100 ft) and 50m (164 ft).
- (ii) Fibre Glass measuring tapes 30m (100 ft), 50m (164 ft), 100m (328 ft);
- (iii) Metal Wired tapes 10m (33 ft), 15m (50 ft), 20m (66 ft), 25m (82 ft), 30m (100 ft) and 50m (164 ft).

2. The permission to manufacture the above weight and measures, exclusively for export purposes, shall be subject to the following additional conditions, namely :—

- (1) no non-standard weights and measures, shall be sold or otherwise distributed within the territory of India;
- (2) each of the non-standard weights and measures shall carry a declaration on its outer cover that it is meant for “export purposes” only;
- (3) the firm shall submit to the Central Government, at the end of the calendar year, a statement as to the quantity of the non-standard weights and measures exported by it and the particulars of the persons to whom such exports have been made; and
- (4) the firm shall maintain a monthly record of the number of such non-standard weights and measures manufactured by it, number of non-standard weights and measures exported by it, and the number of non-standard weight and measure in stock or under production. The record so maintained shall be open to inspection by an officer authorised by the Central Government, in this behalf.

[F No WM 20 (3)/99]

RAJIV SRIVASTAVA, Addl. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 23 सितम्बर 1999

का. आ. 2801.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम व प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. सं. 1269 तारीख 05 मई, 1999 द्वारा हरियाणा राज्य में सोनीपत से उत्तर प्रदेश राज्य में मेरठ तक पेट्रोलियम पदार्थों के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन हेतु उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी।

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 19-05-1999 से उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए।

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित करने की घोषणा करती है।

और यह कि केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि के उपयोग के अधिकार केन्द्रीय सरकार में निहित होने की बजाय सभी बिलिंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होंगे।

अनुसूची

तहसील - बागपत	जिला - बागपत	राज्य - उत्तर प्रदेश		
गांव का नाम	खसरा न०	क्षेत्रफल		
1	2	हेक्टेयर	आर	वर्गमीटर
		3	4	5
बागपत खादर	518	0	06	04
	523	0	03	69
	524	0	09	39
	544	0	03	18
	545	0	06	54
	547	0	01	60
	548	0	08	72
	549	0	01	30
	551	0	03	08
	552	0	09	05

1	2	3	4	5
वागपत बांगर	1274	0	39	55
	1303	0	03	92
	1315	0	21	45
	1319	0	02	51
	1326	0	00	30
	1327	0	05	36
	1328	0	04	69
	1331	0	16	59
	1374	0	00	28
	1376	0	12	90
	1378	0	04	32
	1414	0	05	20
	1415	0	12	40
	1418	0	01	47
	1419	0	12	91
	1422	0	00	21
	1461	0	04	02
	1466	0	00	21
	1467	0	13	41
	1468	0	05	20
	1469	0	05	36
	1470	0	06	37
	1471	0	10	73
	1472	0	00	21
	1474	0	03	35
	1475	0	00	42
	1476	0	07	37
	1478	0	00	42
	1479	0	05	02
	1480	0	01	92
	1481	0	01	80
	1516	0	16	65
	1519	0	39	69
	1520	0	00	42
	1521	0	00	21
	1522	0	03	02
	1523	0	04	69
	1524	0	11	00
	1526	0	10	00
	1527	0	05	00

[फा. सं. आर-31015/10/98-ओ. आर.-I]

एस. चन्द्रशेखर, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, 23rd, September 1999

S.O.2801.— Whereas by the notification of Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1269 dated 05th May,1999 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User In Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying branch pipeline for the transportation of petroleum products from Sonapat in the State of Haryana to Meerut in the State of Uttar Pradesh;

And, whereas, the copies of the said notification were made available to the public from 19-05-1999;

And whereas, the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report, is satisfied that the right of user in the land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of the section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest, in the Indian Oil Corporation Limited free from all encumbrances.

Schedule

Tehsil - Baghpat		District - Baghpat		State - Uttar Pradesh	
Name of village	Khasra No.	Area			
		Hectare	Are	Sq. Mtr.	
1	2	3	4	5	
Baghpat Khadar	518	0	06	04	
	523	0	03	69	
	524	0	09	39	
	544	0	03	18	
	545	0	06	54	
	547	0	01	60	
	548	0	08	72	
	549	0	01	30	
	551	0	03	08	
	552	0	09	05	

1	2	3	4	5
Baghpat Bangar	1274	0	39	55
	1303	0	03	92
	1315	0	21	45
	1319	0	02	51
	1326	0	00	30
	1327	0	05	36
	1328	0	04	69
	1331	0	16	59
	1374	0	00	28
	1376	0	12	90
	1378	0	04	32
	1414	0	05	20
	1415	0	12	40
	1418	0	01	47
	1419	0	12	91
	1422	0	00	21
	1461	0	04	02
	1466	0	00	21
	1467	0	13	41
	1468	0	05	20
	1469	0	05	36
	1470	0	06	37
	1471	0	10	73
	1472	0	00	21
	1474	0	03	35
	1475	0	00	42
	1476	0	07	37
	1478	0	00	42
	1479	0	05	02
	1480	0	01	92
	1481	0	01	80
	1516	0	16	65
	1519	0	39	69
	1520	0	00	42
	1521	0	00	21
	1522	0	03	02
	1523	0	04	69
	1524	0	11	06
	1526	0	10	00
	1527	0	05	00

[F. No. R-31015/10/98-OR-I]

S. CHANDRASEKHAR, Under Secy.

नई दिल्ली, 23 सितम्बर 1999

का. आ. 2802.— केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि मथुरा - जालंधर पाइपलाइन से मथुरा से दुण्डला तक पेट्रोलियम उत्पादों के परिवहन के लिए एक ब्रांच पाइपलाइन इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा बिछाई जाए ;

और ऐसा प्रतीत होता है कि उक्त पाइपलाइन बिछाने के प्रयोजन के लिए अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि के उपयोग के अधिकार का अर्जन करना आवश्यक है ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन), अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ जनसाधारण को उपलब्ध करा दिए जाने के तारीख से इक्कीस (21) दिन के भीतर, उनमें उपयोग के अधिकार का अर्जन या भूमि के नीचे पाइपलाइन बिछाने के सम्बन्ध में आपत्ति लिखित रूप से श्री इंदु धर, सक्षम प्राधिकारी, मथुरा - दुण्डला पाइपलाइन प्रोजेक्ट, इंडियन ऑयल कॉर्पोरेशन लिमिटेड (मार्केटिंग डिवीजन), डिवीजनल कार्यालय, बिल्डिंग-65/2, संजय प्लेस, आगरा को कर सकेगा।

अनुसूची

तहसील - मथुरा		जिला - मथुरा		राज्य - उत्तर प्रदेश	
गाँव का नाम		खसरा नं०		क्षेत्रफल	
				हेक्टेयर	वर्गमीटर
मादौर	526			00 00	67
	532			00 21	12
तहसील - एतादपुर		जिला - आगरा			
धरहरा	519			00 46	59

[फा. सं. आर-31015/2/99-ओ. आर.-1]

एस. चन्द्रशेखर, अवर सचिव

New Delhi, 23rd, September 1999

S.O. 2802.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mathura to Tundla, a branch pipeline should be laid, from existing Mathura-Jalandhar Pipeline by Indian Oil Corporation Limited;

And, Whereas, it appears that for the purpose of laying such pipelines it is necessary to acquire the right of user in the land described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may within 21 (twenty one) days from the date on which the copies of this notification as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Indu Dhar, Competent Authority, Mathura-Tundla Pipeline Project, Indian Oil Corporation Limited (Marketing Division), Divisional Office Building-65/2, Sanjay Place, Agra.

Schedule

Tehsil - Mathura		District - Mathura		State - Uttar Pradesh	
Name of Village	Khasra No.	Area			
		Hectare	Are	Sq. Mtr.	
1	2	3	4	5	
Madaur	526	00	00	67	
	532	00	21	12	
Tehsil - Eltmadpur		District - Agra			
Dharehara	519	00	46	59	

[F. No. R-31015/2/99-OR-I]

S. CHANDRASEKHAR, Under Secy.

पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय

नई दिल्ली, 23 सितम्बर, 1999

का. आ. 2803.—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उपधारा (3) के खंड (क) के द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा तत्काल प्रभाव से और दो वर्ष से अधिक अवधि के लिए अगला आदेश होने तक श्री ज. मो. मऊसकर, संयुक्त सचिव, पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय को डा. अविनाश चन्द्र, इस मंत्रालय के पूर्व सलाहकार (अन्वेषण) के स्थान पर तेल उद्योग विकास बोर्ड का सदस्य नियुक्त करती है।

[संख्या जी.-35012/2/91-वित्त-II]

मोहित सिन्हा, उप सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 23rd September, 1999

S.O. 2803.—In exercise of the powers conferred by Clause (a) of Sub-Section (3) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints, with immediate effect and for a period not exceeding two years, Shri J. M. Mauskar, Joint Secretary in the Ministry of Petroleum and Natural Gas, as a Member of the Oil Industry Development Board vice Dr. Avinash Chandra, former Adviser (Exploration) in this Ministry until further orders.

[No.-G-35012/2/91-Fin.II]

MOHIT SINHA, Dy. Secy.

श्रम मंत्रालय

नई दिल्ली, 2 सितम्बर, 1999

का.आ. 2804.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-99 को प्राप्त हुआ था।

[सं. एल-12025/16/90-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 2nd September, 1999

S.O. 2804.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute 2754 GI/99—8,

between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 1-9-1999.

[No. L-12025/16/90-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, the 19th August, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. 1/91

I PARTY

K. Mahesha Nayak,
Clerk Vijaya Bank,
MIG I, HUDCO Colony,
Manipal D. K. Distt. Karnataka

II PARTY

Management of Vijaya Bank,
2, Residency Road,
Bangalore-25.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12025/16/90-IR B-II dated 31-1-91 on the following schedule.

SCHEDULE

“Whether the action of the management of Vijaya Bank in dismissing Shri K. Mahesha Nayak from services with effect from 14-5-81 is justified? If not to what relief is the workman entitled?”

2. The first party joined the services of the Second party bank on 14-4-76 as a clerk. The second party having found that the first party has committed grave misconduct issued an article of charge dated 13-3-80. Briefly stated the charges are :—

(1) On 29-5-79 the first party had fraudulently withdrawn a sum of Rs. 1000/- from the SB account No. 3502 of Shri K. R. Rajashekar by using a cheque leaf No. 842782 dated 24-5-79 wherein the signature of the account holder was forged by him and he has misappropriated the said amount.

(2) On 13-11-79 when the first party was handling the bills and cheques for collection, one Mr. S. P. Ramayya Setty presented a bearer cheque No. 636663 dated 10-11-79 for Rs. 2,000/- drawn by Shri A. N. Nanjunda Setty, on State Bank of Mysore, Magadi branch for collection and credit of

his SB Account No. 21660. The first party neither entered the particulars of the cheque in the bills collection to the State Bank of Mysore, Magadi. He had stolen the said cheque with the knowledge of the Branch Manager and other staff members. On the next day on 14-11-79 the first party after availing a casual leave went to State Bank of Mysore, Magadi Branch, fraudulently encashed the said bearer cheque for Rs. 2000/- and misappropriated the amount.

3. The above misconduct was treated as gross misconduct within the meaning of clause 19.5(j) of Chapter XIX of the Bipartite Settlement.

4. Since the punishment of dismissal is proceeded by a domestic enquiry and the first party in his claim statement has questioned the validity of domestic enquiry, this tribunal framed a preliminary issue to give a finding. On appreciating the materials placed on these issues, this tribunal held that the domestic enquiry was conducted in accordance with law by an order dated 3-12-1998. When the case is posted for arguments on merits the first party and his advocate remained absent continuously. We have adjourned the case altogether on 14 occasions to give an opportunity for the first party to have his say on the merits of the case. Since the first party has not utilised the said opportunity we have heard the learned advocate for the second party and proceeded to pass this award.

5. The second party established the misconduct by this workman through oral and documentary evidence. Infact a police complaint was also given and a case with registered in CC No. 141/84 for the offences punishable under Section 420, 465, 471, 477 (Chapter A) and 409 of the Indian Penal Code. Though this workman was acquitted in the Criminal case vide judgement dated 17-5-90, the management conducted the domestic enquiry earlier to this decision and on the basis of the report of the enquiry officer they have taken into consideration that the proved misconduct was very grave and therefore, they have imposed an extreme penalty of dismissal.

6. Since this tribunal gave a finding that the domestic enquiry was fair it is the duty of the first party to place materials if he happened to prove that the report of the enquiry officer is perverse. If he failed to prove such aspect of the matter we have to take the report as it stands. When we accept that the report of EO is not a perverse order then this tribunal cannot interfere with the order of punishment imposed by the disciplinary authority unless it is shown that such such punishment is shockingly disproportionate to the proved misconduct.

7. The first party was dismissed from service w.e.f. 14-5-81. The dispute was referred to this Tribunal on 31-1-91. There is a gap of 10 years to raise this dispute. The first party has not explained for this delay. Therefore, the reference is required to be rejected even on the point of laches committed by workman.

8. Since the first party has committed a gross misconduct which is unbecoming of a bank employee, we cannot interfere with the order of the management. In the result I make the following order.

ORDER

The second party management are justified in dismissing the services of this workman for the proved misconduct. Reference is answered accordingly.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 2 सितम्बर, 1999

क्र.आ. 2805 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-99 को प्राप्त हुआ था।

[सं. एल-12012/744/87-डी-II(ए)]

सी० गंगाधरन, अवर सचिव

New Delhi, the 2nd September, 1999

S.O. 2805.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 1st September, 1999.

[No. L-12012/744/87-DII(A)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated 19th August, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 21/88

I PARTY

Shri J. S. Nilugal,
C/o Shri M. H. Bhat,
Advocate, No. 59,
Gokul Road,
Hosur,
HUBLI-580021.

II PARTY

The General Manager,
Canara Bank,
Mangalore Circle Office,
P.B. No. 227, Canara Bank,
Bldg. Light House Hill,
Balamatta Road,
MANGALORE-575001.

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/744/87-D.II(A) dated 19th May, 1988 for adjudication on the following schedule.

SCHEDULE

"Whether the action of the management of Canara Bank in dismissing from service Shri J. S. Nilugal is justified? If not, to what relief is the workman entitled?"

2. The I party joined the services of the Bank as an Attender on daily wages of Rs. 6/- per day in the year 1976. After some period he was absorbed as a regular Peon. He was confirmed as a Permanent peon in the year 1979. He was dismissed from service after holding a Domestic Enquiry in respect of a charge sheet dated 30-3-1984.

3. The allegation in the charge sheet was that the I party while discharging his duties in the main branch Hubli, he had been entrusted by the branch 24 cheques amounting to Rs. 20,163.36 drawn on various Co-operative Banks, who are the non-members of clearing house for the purpose of collection and handing over the Cash to the Main Branch. The said 14 cheques pertain to HDMC Extension Counter Branch and were tendered for collection by Hubli-Dharwad Municipal Corporation to the credit of their SB Account. Even though all the 14 cheques were realized and realization proceeds aggregating to Rs. 20,163.36 were received by the I party in cash. As per the records of the drawee branch, he has not accounted the same in the branch.

4. The I party in the claim statement stated that he was unaware of the collection procedure, which work was taken over from another workman Shri G. B. Murgod, who was attending this work earlier. As per the directions of the Manager the said Murgod had written all the credit slips and obtained the signature of the I party workman on the over-leaf and also collected the money from the concerned bank. As such, the I party has not at all received the cash of these cheques. Shri Murgod who have received the cash of these cheques had promised to deposit the said amount next day but without crediting he has misused the same for his personal benefit.

5. He has also raised several contentions as it regards the validity of Domestic Enquiry.

6. The II party in their counter statement have totally rejected the contentions taken by the workman that these cheques were entrusted to Shri Murgod and he misappropriated the said amount. Due to this defence the management decided to conduct a Domestic Enquiry after issuing the Charge Sheet. The I party who threw the blame on Murgod has not made any efforts to examine him nor he has placed any material to that extent except his allegation.

7. It is further contended that the criminal action was not initiated against this workman though at the earlier stage, he has confirmed in writing accepting the misconduct by a letter dated 6-1-84, only due to the fact that some of his relatives assured the bank that they will reimburse the amounts mis-utilised by the workman and therefore, no amount of sympathy can be shown to this workman whose act was deliberate and he tried to get over his misdeeds by taking false defence.

8. On the pleadings this tribunal framed a preliminary issue to give a finding on the validity of Domestic Enquiry. After recording the evidence of the I party and the Enquiry Officer this tribunal gave a finding on 10-2-89 that the management has not conducted the Domestic Enquiry in accordance with law.

9. Consequent to this finding the management has to prove the misconduct by placing the materials independently. The marathon exercise started from this stage onwards.

10. The management examined totally 10 witnesses to prove the misconduct. The evidence ultimately concluded by cross-examining I party on 8-7-1999.

11. The learned advocate for the II party Shri KVAP has submitted that this Tribunal set aside the validity of Domestic Enquiry on some technical grounds and therefore, management obliged to examine so many witnesses to prove the misconduct. The learned Advocate further submitted that all

the witnesses examined by the management are responsible officials whose evidence is reliable. In addition to the Oral evidence of these witnesses the documents marked as Exhibits clearly discloses that this workman has indulged in misappropriating the amounts by using the clearing cheques belong to the customers.

12. Against this submission Shri MRR a representative for the I party has submitted that the management failed to prove the misconduct and they are also failed to take into account the statement made by the I party that one Mr. Murgod was instrumental and therefore, the action against the I party was totally unwarranted.

13. It is well established Principle of Law that to establish the misconduct of a workman in a Domestic Enquiry preponderance of circumstances is sufficient to hold the misconduct committed by a workman. In appreciating this aspect of the matter the tribunal should examine the conduct of the delinquent before or after committing this misconduct. The admissible factors which are not introduced by any trick are by persuasion shall be taken into consideration in deciding this aspect of the matter. This workman when the misdeeds are discovered, he gives a letter written in his own handwriting accepting the misconduct and promised to make good of the amounts which was marked as Ex M-17 in this Tribunal. Ex. P-18 is a letter addressed to the Manager by the Father-in-law of the I party that they will make good the amounts misappropriated by the I party and as a token of bonafide they tendered Rs. 1965.77.

14. Irrespective of the action initiated by the bank they have also filed a suit in OC No. 5/87 before the Principal Munciff, Hubli for recovery of misappropriated amount. The learned Munciff by his judgement dated 14-10-88 decreed the suit partly directing the I party to pay the decretal amount with interest at the rate of 11 percent per annum.

15. The management having found that the learned Munciff has not passed the decree for the amounts claimed by them, filed an appeal in RA No. 1/1989 before the Principal Civil Judge, Hubli. This appeal was decided on 21-11-91. The appellate court modified the cadre of the trial court.

16. This is the ample proof and conclusive to come to a conclusion that the I party has committed the misconduct alleged in the charge sheet. This is what precisely the tribunals shall take into consideration in view of the limitation that strict rules of evidence are not applicable and the misconduct does not required to be proved beyond reasonable doubt as in the case before the Criminal Court.

17. I have also examined the evidence of the witnesses who examined after Domestic Enquiry was set aside. Managers, Branch Executives, the Officials of the drawee bank and representatives of others were examined by the management. We cannot brush aside the evidence of this responsible witnesses only on the ground that here and there some inconsistencies are found. The evidence shall be appreciated on the sum total of conclusion but not on an isolated factor. As a matter of fact the learned Presiding Officer of this Tribunal has dismissed an application, IA No. 3 filed by this workman for grant of interim relief after Domestic Enquiry was set aside. This order was passed on 17-7-1989. The learned Presiding Officer in Page 3 of the Order states :

"The granting of I.R. under Section 70 (4) of the I.D. Act, even in a case where the Domestic Enquiry conducted by the management is set aside, therefore requires to be decided on the criteria shown above. Hence, in a case where the management has made a genuine attempt of conducting an enquiry has not withstood the tests applied by the Tribunal and if it is set aside for procedural lapses, it cannot be said that the employee automatically gets a right to claim I.R. In other words, the employee, still then shall have to establish that it had got a Prima Facie case and that justice, equity and good consents entitled him to claim I.R."

"Since the date of the setting aside of the Domestic Enquiry, the management examined as many as seven more witnesses and has not marked several documents from Exs. M-17 to M-57. To put it in a nutshell, the said evidence Prima Facie proves that

the II party management has a good case to establish the guilt of the I party employee, whereas the I party has not made out a Prima Facie case to show that he is innocent and that the charges are totally false."

"It is not conceivable as to how the principles of justice, equity and good conscious can be pressed into service in case of an employee, who has been shown to be prima facie guilty of the misconduct, as per the charges levelled against him. It would be as though putting a premium on manifest misconduct."

18. The above reasoning of my learned predecessor is accepted above only to show what was the feeling prevailing even after the validity of Domestic Enquiry was held against the management.

19. Having regards to these facts and circumstances it is a futile to spend some more time in deciding this dispute. In the result I make the following order :

ORDER.

20. The action of the Management of Canara Bank in dismissing from service of this workman is justified. The reference is answered accordingly.

(Dictated to the L.D.C. transcribed by him, corrected and signed by me on 19th August, 1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 02 सितम्बर, 1999

का०आ० 2806:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण राउरकेला के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-99 को प्राप्त हुआ था।

[सं० एल-12012/277/95-आई आर (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 2nd September, 1999

S.O. 2806.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Rourkela as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 1-9-1999.

[No. L-12012/277/95-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE COURT OF THE PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, ROURKELA

Industrial Dispute Case No. 154/97(C)

Dated, the 2nd June 1999

PRESENT :

Sri Alak Kumar Dutta,
Presiding Officer,
Industrial Tribunal,
Rourkela.

BETWEEN

The Branch Manager,
UCO Bank, At : Kesinga,
Dist : Kalahandi

.. 1st party

AND

Sri Manohar Mahala,
Ward No. 6, At : Kesinga,
Kalahandi

.. IInd party

APPEARANCES :

For the 1st party : Sri P. S. Naik, Advocate.

For the IInd party : Sri N. C. Mohanty, Advocate.

AWARD

The Govt. of India in the Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the I.D. Act, 1947 have referred the following disputes for adjudication vide No. L-12012/277/95[IR(B-II)] dated 1-3-97 :

"Whether the action of the management of United Commercial Bank, Kesinga Branch in terminating the services of Sri Manohar Mahala is legal and justified ? If not, to what relief the said workman is entitled ?"

2. In the claim statement, it has been stated by the 2nd party workman that he was engaged by the Bank as a subordinate staff on casual basis in permanent vacancy on 16-4-88. On 15-11-91 all of a sudden the management terminated his service illegally. The management has empanelled and absorbed other employees engaged alongwith the 2nd party where as the management has terminated the services of the 2nd party without giving any notice or notice pay, and without any retrenchment compensation as provided u/s. 25F of I.D. Act. As per bank rules, if a casual worker is engaged in a permanent vacancy, he is to be paid Rs. 41 per day, but the 2nd party was paid Rs. 10 per day. The 2nd party was also paid bonus for the period of his service. Though the 2nd party has fulfilled all the criteria mentioned in the agreement dated 12-10-89, the management terminated his service illegally, arbitrarily and contrary to law. So he prays to answer the reference in his favour.

3. The management has contended in its written statement that the services of 2nd party was not terminated but was discontinued after the regular list of empanellment of daily wagers is drawn up. As per the agreement, such casual workers should have satisfied the norms regarding age i.e. minimum 18 years and maximum 26 years on the date of his first engagement as casual workers. Since the 2nd party had not completed 18 years of age on his first joining, he is not entitled to be absorbed or empanelled. The 2nd party was engaged temporarily. So the management prays to reject the claim of the 2nd party workman.

4. On the basis of the pleadings of the parties, the following issues were framed :

I : Whether the reference is maintainable ?

II : Whether the action of the management in terminating the services of Sri Manohar Mahala is legal and/or justified ?

III : If not, to what relief the 2nd party is entitled ?

5. In order to prove their case, the management has examined two witnesses where as the workman has examined himself only in this case.

6. Issue nos. I to III.—I will take not these issues together for the sake of convenience. The fact that the 2nd party was engaged in the bank as casual worker has been admitted by the management. To absorb the casual workers as sub-staff of the bank, the management entered into a settlement with the union on 19-10-1989 (Vide Ext. 1). According to which a panel was prepared of the eligible casual workers for their absorption as sub-staff against existing vacancy.

Accordingly the management empanelled a number of casual workers. But without empanelling him, he was disengaged from service on 15-11-91. This non-empanelment and dis-engagement from service has been challenged by the aggrieved 2nd party workman.

7. The learned counsel for the management argues that as per the agreement the eligible casual worker should have completed the age of 18 years on the date of his first engagement and also should have completed 240 days work during the period of three years immediately preceding this agreement. He argues that the 2nd party had not completed the age of 18 years on the date of his first engagement and as such he was not empanelled. The learned counsel for the workman has objected to this. Now I will discuss this matter in detail.

8. The 2nd party in his application vide Ext. E has put the date of his first engagement as 4-2-89. In that application, he has put his date of birth as 3-2-71. Although he has read up to Class X as claimed by him, yet no school leaving certificate has been filed in support of his date of birth. As I find his putting 4-2-89 as date of his first engagement is not at all correct because in his claim petition in para-3 he has categorically mentioned that he was engaged by the management on 16-4-88. That apart the workman has filed bank vouchers vide Ext. B series in which his daily wages have been deposited in his saving bank account. These vouchers show that he has been paid daily wages even for the month of 1988. In his deposition also, in the very first line he has deposed that on 16-4-88 he joined the bank on casual basis. So I hold his date of first engagement as 16-4-88 as claimed by him and not 4-2-89 as stated in his application vide Ext. E. Accepting his date of birth as 3-2-71 it can be safely concluded that he had not completed the age of 18 years by his first engagement on 16-4-88. The Manager of the bank in his letter dated 24-11-90 to his higher authority vide Ext. A has admitted that this 2nd party workman was a minor on the date of his first engagement, though completed 240 days of work by 12-10-89. Ext. E the 2nd party workman has claimed that he belongs to general caste. This agreement vide Ext. 1 does not speak about any age relaxation in case of general candidates. As per 2(e) of the agreement the eligible candidates must have completed the age of 18 years on the date of his first engagement. In the present case, the 2nd party workman has not completed the age of 18 years on 16-4-1988, the date of his first engagement. Since no relaxations has been given in the lower age limit of general candidate, the management is justified in rejecting his application for empanelment. The apart the 2nd party workman filed the application on 24-4-90 though the last date of filing of application as per Ext. 1 was 30-11-89. Accordingly the 2nd party is not entitled to any relief.

Accordingly the reference is answered.

ALAK KUMAR DUTTA, Presiding Officer

नई दिल्ली, 2 सितम्बर, 1999

कां० 2807:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-99 को प्राप्त हुआ था।

[सं० एल-12012/192/91-आई आर (बी-II)]

सी० गंगाधरन, अवर सचिव

New Delhi, the 2nd September, 1999

S.O. 2807.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of United Bank of India and their workman, which was received by the Central Government on 01-09-1999.

[No. L-12012/192/91-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 27 of 1991

PARTIES:

Employers in relation to the management of United Bank of India.

AND

Their workmen.

PRESENT:

Mr. Justice A. K. Chakravarty, Presiding Officer.

APPEARANCES

On behalf of Management: Mr. A. Kumar, Deputy Chief Officer (Law).

On behalf of Workmen: Mr. S. K. Mukherjee, Vice-President of the Union.

STATE: West Bengal.

INDUSTRY: Banking.

AWARD

By Order No. L-12012/192/91-IR-B.II dated 1-10-1991 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to the Tribunal for adjudication:

"Whether the action of the management of United Bank of India in dismissing Shri Shyamal Chakraborty, Clerk is justified? If not, to what relief is the workman entitled?"

2. Instant reference has arisen at the instance of the UBI Employees' Association (in short, the union) for the alleged wrongful dismissal of Sri Shyamal Chakraborty, the concerned workman by the management of United Bank of India (in short, the management).

3. By order dated 17-3-1999 this Tribunal upon consideration of the facts and circumstances of the case as well as the position of law in the matter held that the enquiry proceeding against the concerned workman was properly conducted upon due compliance of the principles of natural justice and the findings of the enquiry officer being based on evidence on record it was fair and proper. Parties thereafter were directed to make submissions in respect of quantum of punishment on the evidence on record.

4. In terms of the aforesaid order though the management made its submission, union did not take any step to make any submission on behalf of the workman. It appears from record that the Tribunal adjourned the matter suo moto twice before this hearing for enabling the union to make its submission.

5. The disciplinary authority having confirmed the punishment of dismissal of the concerned workman, Shyamal Chakraborty from bank's service by his letter No. PD/DIR/A/2/1147/87 dated 9-12-1987, justification of such punishment is under consideration in this proceeding under Section 11A of the Industrial Disputes Act, 1947.

6. Before proceeding to discuss this aspect of the matter, it is necessary to state the facts of the case in a nutshell. Workman concerned was working as a Clerk in the College Street Branch of the United Bank of India at the relevant time. While posted at the said branch, he introduced a S.B. A/c. bearing No. 61150 opened in the name of one Sunil

Baran Nath. The said account was maintained in Ledger No. 18 and the concerned account holder used to transact the account through the concerned workman. On 29-12-84 the concerned workman made a fictitious credit entry of Rs. 60,000 in the said S.B. Account bearing No. 61150 in ledger No. 18 and also inflated the balance subsequently to Rs. 74,362 in the ledger No. 18A to which the said account was transferred. Thereafter on 14-1-1985, 29-1-1985, 18-3-1985 and 23-4-1985 payments of Rs. 2000, Rs. 7000, Rs. 8000 and Rs. 7500 respectively were received by the concerned workman on the basis of the withdrawal slips filled in by him and signed in the back thereof as receipt. The relative postings were also made by him under his initial in L. K. Column in S.B. ledger 18A though he was directed to work in S.B. ledgers 19 to 21. After detection of the fraudulent works the concerned workman deposited an amount of Rs. 10,250 in two instalments in the account. The workman was thereafter chargesheeted. His reply thereto having not been found to be satisfactory, an enquiry proceeding was conducted and this Tribunal by its order dated 17-3-1999 found the said enquiry proceeding to be legal and valid.

7. The facts as stated above, having all been found to be correct and the explanation of the concerned workman that he manipulated the account only for the purpose of reconciliation of the ledger being totally unacceptable, the question is whether in the above facts and circumstances the workman merits extreme punishment of dismissal from service as inflicted upon him by the management.

8. It is to be noted in this connection that a bank employee cannot claim protection under Article 311 of the Constitution of India on account of nationalisation. Reference may be made to the case of *P. Christopher Jobez v. Indian Bank and Anr.*, reported in 1979 (11) LLJ 274. The Deputy Chief Officer of the Bank having delegated the power to act as disciplinary authority in terms of Clause 19.14 of the Bipartite Settlement dated 19th October, 1966 read with clause 2 of the Bipartite Settlement dated 31st October, 1979, jurisdiction of the disciplinary authority to indict the punishment cannot be challenged.

9. It is necessary to refer to certain decisions of the Hon'ble Supreme Court and other Courts to look at this question in its proper perspective. Hon'ble Supreme Court in the case of *Indian Iron and Steel Co. v. their workmen*, reported in AIR 1958 SC 130 held that "In cases of dismissal on misconduct, the tribunal does not, however, act as a Court of Appeal and substitute its own judgement for that of the management. It will interfere (i) when there is a want of good faith, (ii) when there is victimisation or unfair labour practice, (iii) when the management has been guilty of a basic error or violation of a principle of natural justice and (iv) when on the materials, the findings are completely baseless or perverse". The said Hon'ble Court, however, in the case of *Hindustan Machine Tools Ltd., Bangalore v. Md. Usman and Anr.*, reported in 1983 (11) LLJ 386 held that Section 11A of the Industrial Disputes Act, 1947 confer powers on the Labour Court to evaluate the severity of the misconduct and assess whether the punishment imposed by the employer is commensurate with the gravity of misconduct but at the same time it is well-settled that when a discretion is vested in a authority it must act in good faith, must have regard to all relevant considerations and must not seek to promote purposes alien to the letter or to the spirit of the legislation that gives it power to act and must not act capriciously as held by Division Bench of the Hon'ble Gauhati High Court in the case of *Workmen of Tanganagaon Tea Estate v. Management of Tanganagaon Tea Estate and Anr.*, reported in 1987 (11) LLJ 491. Reference may also be made to the Division Bench decision of the Hon'ble Calcutta High Court in the case of *Naktala Iron Works v. State of West Bengal*, reported in 1978 Lab. I. C. 899 where it is held that necessary test to the fact that the Tribunal should not make any interference, unless of course, it comes to the conclusion that there was no justification for punishment or it is so shockingly disproportionate as would betray malice on the part of the employer, or in other words, one is to see, if imposition of a particular punishment is a colourable act on the part of the employer or not. The true test, therefore, is to see what a reasonable employer would have done in the circumstances.

10. It should be noted in this connection that there is no fixed parameter for judging gravity of an offence. It differs from facts to facts and circumstances to circumstances. Undoubtedly the punishment to be awarded must be commensurate with the gravity of the offence committed by the workman. I have already stated that there may be different yardstick for judging the gravity of the offence. Even in normal circumstances, the offence committed by the concerned workman in this case is very grave and serious in nature. Commission of any fraudulent practice betraying the trust of the employer upon its employee must always be considered to be grave and serious offence. The gravity and seriousness of such offence is multiplied several times when such offence of temporary misappropriation and fraudulent acts are committed by an employee of a bank. The Hon'ble Supreme Court in the case of *Tara Chaud Vyas v. Chairman and Disciplinary Authority and Ors.*, reported in 1997 SCC (L&S) 1241 held that the employees and officers working in the nationalised Bank are not merely the trustees of the society but also bear responsibility and owe duty to the society for effectuation of socio-economic justice. It has been stated in the said decision "..... Corruption has taken deep roots among the sections of the society and the employees holding public office or responsibility equally became amenable to corrupt conduct in the discharge of their official duty for illegal gratification. The banking business and service are also vitally affected by the catastrophic corruption. Disciplinary measures should, therefore, aim to eradicate the corrupt proclivity or conduct on the part of the employees/officers in the public offices including those in the banks....."

11. It is true that the concerned workman repaid a sum of Rs. 10,250 (the excess amount drawn), but deposit of excess amount drawn can neither upon ex-erate the concerned workman from the charges of misconduct or can it be a justification for taking any lenient view in the matter. In this connection relevant portion of the decision of the Division Bench of the Hon'ble Bombay High Court reported in 1993 (1) LLJ 547 (*Dattatray Trimbak Kulkarni v. State Bank of India, Bombay and Ors.*) may be referred to:—

"Mr. Mandlik then submitted that as soon as the cash was found missing, the petitioner reimbursed to the Bank the amount found missing and the petitioner did this on assurance that no action will be taken. We are unable to find any merit in this submission. The Bank did not prosecute the petitioner in a Criminal Court possible because of the petitioner reimbursing the amount to the Bank, but the fact of reimbursement cannot oust the right of the Bank to hold an enquiry."

Reference can also be made to the case of *D. Padmanabhudu v. Bank of India and Anr.*, reported in 1995 (1) 111 1076 where an Accounts Clerk in a nationalised Bank was dismissed from service on the charge that he had not deposited the amount remitted by the customers for crediting to their respective accounts but misappropriated them and even fabricated false document by posting false entries. On a reference to the Labour Court for adjudication, the Labour Court interfered with the quantum of punishment and directed the management to call him back to service and imposed a punishment of withholding of two future increments with cumulative effect. It was held that the Labour Court misdirected itself by taking a lenient view that the amount misappropriated did not belong to the Bank but it belonged to the customers. Such a view cannot be said to be a reasonable view at all. Labour Court was also found to be wrong in assuming that the appellant had repented for the act. The amount was repaid by the appellant only after he was caught and not before. In the aforesaid circumstances, subsequent repayment of the overdrawn amount shall not be a ground for lenient treatment to the concerned workman.

12. In the aforesaid view of the role of the Bank employees upon the society, no lenient view for the commission of any gross fraudulent act can be taken and no punishment excepting dismissal from service is called for in such case.

13. Management having thus wisely and properly exercised its discretion in dismissing the concerned workman from service, I find no reason for interfering with such order. The action of the management in dismissing the concerned work-

man from service is thus justified. The workman shall not be entitled to any relief in this case.

This is my Award.

Dated, Calcutta,

The 18th August, 1999.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 2 सितम्बर, 1999

का०आ०2808:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण मलाकड के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-99 को प्राप्त हुआ था।

[सं० एल-12012/131/96-आई आर (बी-II)]

सी० गंगाधरन, अवर सचिव

New Delhi, the 2nd September, 1999

S.O. 2808.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Palakkad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 01-09-1999.

[No. L-12012/131/96-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, PALAKKAD

(Thursday, the 29th July, 7th Sravana 1921)

PRESENT :

Sri. B. Rajit Kumar, Industrial Tribunal.
Industrial Dispute No. 16/97(C)

BETWEEN

The Assistant General Manager (PL), Indian Bank, Central Office, Madras-600 001.
(By Advs. E. Subramania Iyer, Alias M. Cherian & C. M. Sunil Kumar)

And

Shri P. L. Vincent, Purathezhathu House, Kum-Balam, P.O., Kochi-682 506.

(By Adv. K. K. Premlal)

AWARD

The Government of India, Ministry of Labour as per order No. L-12012/131/96/IR (B-II) dated 19-05-97 referred the following issues for adjudication :

"Whether the action of the management of Indian Bank, Madras in terminating the services of Sri. P. L. Vincent w.e.f. 27-10-84 is legal and justified ? If not, to what relief the said workman is entitled ?"

2. The workman did not file any separate claim statement. He filed copies of various representations which he had submitted before the Regional Labour Commissioner (C), Ernakulam and requested to treat the same as his claim statement. His contention is that he was engaged by the management-bank as sub-staff during the period from 1979 to 26-10-1984 on leave vacancies and he had thus worked for 271 days during the said period. The grievance of the workman is that the management discontinued his above engagement with effect from 27-10-84 and thereby denied him employment. He would also submit that his juniors were retained in service while he was denied employment. His prayer is to direct the management-bank to appoint him as a peon in any of its branches.

3. The management-bank has filed counter statement dated 4-10-1997 refuting the above averments of the workman. According to management, the claim of the workman is highly belated and the claim is also devoid of merit. The management would submit that it is a body corporate under the provisions of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 and in view of the various provisions of the said Act, instructions and the guidelines issued by the Government of India are binding on it. On the basis of the said guidelines, various norms are fixed by the management in the matter of engagement of sub-staff on casual basis in leave vacancies of regular sub-staff of the bank. The contention of the management is that the workman is not entitled to be considered for further engagement as sub-staff on casual basis.

4. The concerned workman himself was examined as WW1 and marked Ext. W1 series documents in support of his averments. On the side of the management, MW1 and MW2 were examined and marked Ext. M1-M6 documents.

5. From the pleadings of the parties and the documents produced by them, it is seen that there is delay in raising this industrial dispute. According to workman, he was denied employment with effect from 27-10-84. The conciliation proceedings are seen initiated by the Regional Labour Commission (C), Ernakulam in 1995. It is also observed from Ext. M1 letter dated 16-8-95 from the management to the workman that the workman had submitted a representation dated 13-3-95 to the Hon'ble Prime Minister. There is no evidence to show that he had made any representation in the matter of alleged denial of employment during the period from 27-10-84 to 13-3-95. Therefore, it would be observed that there is delay in raising the present industrial dispute. However, I am of the view that mere delay in raising the dispute alone cannot be taken as a ground to refuse adjudication of the claims of the workman under the Industrial Dispute Act, 1947. In AJAIB SINGH VS SIRHIND CO-OPERATIVE MARKETING-CUM-PROCESSING SERVICE SOCIETY LIMITED AND ANOTHER (1999) 95 FJR-72, the Supreme Court

has held that the provisions of Article 137 of the Limitation Act, 1963 are not applicable to proceedings under the Industrial Disputes Act, 1947 and the relief under such proceedings cannot be denied to the workman merely on the ground of delay. In the above case, the Supreme Court has further held that the plea of delay, if raised by the employer, has to be proved as a matter of fact by showing real prejudice and not a mere hypothetical defence. In the present case, the management-bank has not shown any prejudice that may be caused to it by the adjudication of this dispute. In *Ajaib Singh* case the Supreme Court has further held that even in a case where the delay is shown to exist, the Tribunal dealing with the case of a workman whose services were terminated can appropriately mould relief by declining backwages.

6. On the merit of the dispute, the contention of the management is that being a corporate body governed by the provisions of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970, it is mandatory to abide the guidelines issued by the Government of India in the matter of engagement of temporary sub-staff. On the other hand, the contention of the learned counsel for the workman is that the settlements signed under the provisions of the Industrial Disputes Act are also binding on the management.

7. The management has admitted the engagement of workman as temporary sub-staff during the period from 1979 to 1984. According to management, even at the time of initial engagement in 1979, the workman was overaged as the maximum age prescribed was 23 years. MW1 who is the Manager attached to the Ernakulam Zonal Office of the management has stated that the documents showing the date birth of the workman is kept in the management-bank and based on the said document he was engaged in 1979. The management has produced Ext. M6 statement. According to MW1, Ext. M6 contained extract of guidelines pertaining to appointment of sub-staff. Based on Ext. M6, another Zonal Office Manager (MW2) has also stated that the maximum age limit for a Sub-staff at the initial engagement was 23 years. The management has not produced the relevant guidelines on the basis of which Ext. M6 is prepared. In the absence of relevant documents, it cannot be held that the minimum age fixed for the initial appointment of Sub-staff was 23 years and the maximum age for final engagement was 30 years.

8. At the time of final hearing, the learned counsel for the management submitted that the date of birth of the workman is 26-11-1952. The said submission has not been disputed by the learned counsel for the workman. As already observed herein above, the management was well aware of the age of the workman at the time of his initial engagement in 1979. Admittedly, he was aged above 26 in 1979 and he continued in temporary service till 26-10-1984. In my considered opinion, having engaged the workman for such a long period, the management cannot be heard to contend that the workman was overaged at the initial engagement or the initial engagement itself was not in order.

9. The further contention of the management is that the workman does not satisfy the conditions prescribed in Ext. M5 circular dated 11-4-1985. Clause 2 of Ext. M5 runs as follows :—

“Those who were taken in the panel before 01-04-81 without sponsorship of Employment Exchange but having live Employment Exchange registration can be continued in the temporary panel provided they have worked for 120 days in the entire past as on 31-12-1984.”

10. The management-bank has admitted that Ext. W1 series certificates were issued by its Branch Managers. Placing reliance on Ext. W1 series certificates, the workman would submit that he had worked 271 days for the period from 1979 to 26-10-1984. MW1 has also admitted in cross-examination that the workman had worked for more than 120 days prior to 31-12-1984. Therefore, it is clear that the workman had satisfied the second part of clause 2 of Ext. M5 circular. The workman (WW1) has stated in cross-examination that he was not engaged through Employment Exchange. Therefore, he might not have registered with Employment Exchange and not satisfied the first part of clause 2. It appears that Ext. M5 circular was issued after signing a settlement dated 25-11-85 by the management and the recognised federation of unions. Both sides have not produced the settlement dated 25-11-85 before this Tribunal. The contents of this settlement has been extracted in Ext. M2 conciliation settlement dated 6-7-1992 which runs as follows :—

“The leave vacancies in the Sub-staff cadre are managed by deploying persons who have been empanelled for the above purpose. As per the Government guidelines the persons who are empanelled for being deployed in the leave vacancies of Sub-staff have to be sponsored by Employment Exchange. There have been instances of persons engaged directly without being sponsored by Employment Exchange. The continuance or discontinuance of the above persons in the panel have been discussed with the Recognised Federation several times and in the meeting held on 25-11-85 it was mutually agreed between the parties to call for the list of persons who were engaged without being sponsored by Employment Exchange and worked for 120 days as on 31-12-84 from the respective Zonal Offices and draw a final list. Accordingly the persons who have worked for 120 days as on 31-12-84 were allowed to continue in the panel and all others were dropped”.

11. A conjoint reading of above extract and clause-2 of Ext. M5 circular would show that the said clause is contrary to the terms of the settlement signed on 25-11-85. It is not clear whether the settlement dated 25-11-85 is a conciliation settlement or bipartite settlement. However, it is abundantly clear that this is a settlement arrived at in accordance with the provisions of Industrial Disputes Act, 1947. According to the workman, he is not a member of

any unions. However, a settlement signed in accordance with the provisions of the I.D. Act is applicable to him also. In any event the above settlement dated 25-11-85 is binding on the management and it is the duty of the management to enforce the same in its letter and spirit. In the present case, it is seen that the management unilaterally altered the terms of the settlement dated 25-11-85. As per the said settlement, the management was liable to allow to continue in the panel all temporary Sub-staff who were engaged without being sponsored by Employment Exchange and worked for 120 days as on 31-12-84. As already observed hereinabove, the workman had satisfied the above condition. Therefore, he was entitled to continue as temporary Sub-staff according to requirement. It appears that ignoring the above settlement, the management discontinued the engagement of the workman placing reliance on clause 2 of Ext. M5 circular. I am of the view that the above action of the management is totally unreasonable and unsustainable.

12. It is further submitted by the management that as per Ext. M2 conciliation settlement dated 6-7-92, it was agreed upon to consider all those persons who were engaged without being sponsored by the Employment Exchange and worked for 90 days or more during the period 1-1-82 to 31-12-89 as a one time measure and if the persons are found suitable for selection, they may be taken back in the panel for being engaged in the leave vacancies of Sub-staff subject to necessary approval being obtained from Director General of Employment and Training. According to management, the workman was not entitled to the benefit of Ext. M2 settlement also. The learned counsel for the management submitted that in other public sector banks the above criterion was followed for empaneling persons for considering temporary engagement and it was decided to adopt such criterion by the management-bank also.

13. A reading of Ext. M2 settlement reveals that the classification of persons for considering for engagement as temporary Sub-staff as per earlier settlement dated 25-11-85 and Ext. M2 settlement dated 6-7-92 are different. While the previous settlement dated 25-11-85, covers the persons who had worked 120 days as on 31-12-1984, second settlement dated 6-7-92 is intended for persons who had worked 90 days or more between 1-1-82 and 31-12-89. In other words, the temporary services rendered prior to 1-1-82 are not reckoned in Ext. M2 settlement. In the present case, the workman had worked for the period from 1979 to 26-10-1984 and obviously he had worked from 1-1-82 to 26-10-1981. It is not clear from Ext. W1 series certificates whether he had worked 90 days or more during this period. The management has not produced any document to show the exact number of days the workman had worked during each month, though it is admitted by MW2 that relevant documents are available in the management-bank. MW1 and 2 were not in a position to state the exact number of days worked by the workman during the period 1-1-82 to 31-12-89. MW1 has admitted in cross-examination that except certificates like Ext. W1 2754 GI/99—9.

series, no other documents were issued to the workman showing the number of days worked by him. At the same time, MW1 had also admitted that there are records in the bank that would show the number of days worked by the workman. When it is contended by the management that the workman had not worked 90 days or more during 1-1-1982 to 31-12-89, the burden of proof is on the management to prove that fact by producing relevant documents which are admittedly in its possession. In the present case, the management failed to do so and hence the benefit of doubt should be given to the workman. Therefore, I find that even as per Ext. M2 settlement dated 6-7-92, the workman was entitled to be considered for continued engagement as Sub-staff in leave vacancies.

14. The further contention of the management is that pursuant to Ext. M2 settlement, the management published Ext. M4 notice dated 16-10-92 in *Hindustan* and *Indian Express* requiring the persons covered by Ext. M2 settlement to contact the Branch/ Administrative Office where they had worked last, and to submit application at the Branch/Office by 16-11-1992. According to management, the workman did not respond to above notice which was also exhibited in various Branches of the management. It is not the case of the management that the above notice was published in any Malayalam daily. The workman herein is a person who has studied only upto 7th standard. According to him, he had not noticed the above notice said to be published in English newspapers. Therefore, the workman cannot be blamed for not submitting application in response to the above notice. It is pertinent to note that when the workman was initially engaged, the management bank had obtained all his details including his address and if the management was sincere in implementing Ext. M2 settlement dated 6-7-92 or the previous settlement dated 25-11-85, the management ought to have issued individual notices to the concerned persons in their residential addresses. The management has no case that they had done so.

15. In the light of the aforesaid discussion, it is abundantly clear that the workman was entitled to continue in service as a temporary Sub-staff or entitled to be considered against leave vacancies of regular Sub-staff as per the terms of settlements dated 25-11-85 and 6-7-92. I am of the considered opinion that the above two settlements signed in accordance with the provisions of the I.D. Act are binding on the management-bank, until the same are terminated in accordance with the provisions of Section 19(2) of the Industrial Disputes Act, 1947. It may be true that being a public sector bank governed by the provisions of Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the management is liable to comply with the norms and guidelines issued by the Government of India. However, in view of the provisions of the I.D. Act, 1947, neither the management-bank nor the Government of India is competent to terminate or alter a settlement which has been arrived at in accordance with the provisions of the Industrial Disputes Act, 1947 in Contravention of Sec. 19(2) of that Act. Therefore, I find that the contention of the management

that in view of the guidelines issued by the Government of India, the claim of the workman cannot be considered is untenable. In fact, the management-bank has not produced any such guidelines issued by the Government of India. What the management has produced are only Ext. M3 and M5 documents which are circulars issued by the management itself. The details of the Government Circulars or orders such as its dates, numbers etc. are not mentioned in Ext. M3 and M5. In any event, for the reasons already stated above even if there are such Government Circulars or orders that shall not stand in the way of implementing the settlement dated 25-11-85 and Ext. M2 settlement dated 6-7-92.

16. The further contention of the management is that as per the guidelines issued, a temporary Sub-staff is not entitled to continue in service beyond the age of 30 years. As already observed hereinabove, the management has not produced any relevant circular or order that envisages such a condition. I am of the opinion that there is no justification in not engaging a temporary Sub-staff on attainment of the age of 30 years when regular/permanent Sub-staff are entitled to continue in service beyond that age. No doubt, such an age restriction is discriminatory and arbitrary. In my considered opinion the fairness demands that the temporary Sub-staff should be allowed to continue on the panel for consideration against leave vacancies until they attain the normal superannuation age as applicable to permanent Sub-staff.

17. The next point to be considered is regarding the relief to which the workman is entitled. The learned counsel for the workman submitted that an award may be passed directing the reinstatement of the workman with backwages. As already observed at the beginning, the workman is not entitled to backwages for the reason of delay in raising the industrial dispute. Moreover, he was not a regular employee. He was engaged only against leave vacancies of other regular Sub-staff and there was no guarantee for continued employment. Of course, if he had continued in service as temporary Sub-staff he would have been considered for permanency/absorption as it is the practice to recruit permanent Sub-staff from the persons who were engaged against the leave vacancies of regular Sub-staff. Now, several other persons might have already been empanelled for engagements against leave vacancies of Sub-staff and it will not be appropriate to grant seniority to the workman herein above the other persons whose names now appeared in the panel, unless they were given an opportunity for personal hearing. These persons are not parties to these adjudication proceedings. Having regard to all these facts and circumstances I direct the management-bank to enrol the workman on the panel for engagement against the leave vacancies of Sub-staff with immediate effect.

18. In the result, an award is passed holding that the action of the management of Indian Bank, Madras in terminating the services of Sri P. L. Vincent with effect from 27-10-84 is illegal and unjustified. He is entitled to be engaged as temporary Sub-staff according to requirement. The reference order is answered accordingly.

Dated this the 29th day of July, 1999.

B. RANJIT KUMAR, Industrial Tribunal

APPENDIX

Witnesses examined on the side of management.

MW1—Sri. Venkitachalam.

MW2—Sri. V. S. Joseph.

Witnesses examined on the side of workman.

WW1—Sri. Vincent.

Documents marked on the side of the management.

Ext. M1—Letter dated 16-8-95 from management to workman.

Ext. M2—Settlement dated 6-2-92.

Ext. M3—Circular dated 12-10-92.

Ext. M4—Notice dated 16-10-92.

Ext. M5—Circular dated 11-4-88.

Ext. M6—Extract of guidelines for appointment of Sub-staff.

Documents marked on the side of workman.

Ext. W1—Certificates.
(Series)

नई दिल्ली, 2 सितम्बर, 1999

का.आ. 2809:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण राउरकेला के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-99 को प्राप्त हुआ था।

[सं. एल-12012/22/94-आई आर (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 2nd September, 1999

S.O. 2809.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Rourkela as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 01-09-1999.

[No. L-12012/22/94-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE COURT OF PRESIDING OFFICER :

INDUSTRIAL TRIBUNAL : ROURKELA

Industrial Dispute Case No. 34/97(C)

Dated, the 25th June, 1999.

PRESENT :

Sri Alak Kumar Dutta,
Presiding Officer,

Industrial Tribunal,
Rourkela.

BETWEEN :

The Branch Manager,

UCO Bank, Goadvaga Branch,

At : Goadvaga, Sambalpur. . . Ist party.

AND

Sri Manobhanjan Bhoi

At/PO : Goadvaga, Sambalpur. . . IInd party.

APPEARANCES :

For the Ist party.—Sri P. S. Naik Advocate.

For the IInd party.—Sri R. N. Debata, Advocate.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the I.D. Act, 1947 have referred the following disputes for adjudication vide No. L-12012/22/94-IR(B-II), dt. 9-5-94 .

“Whether the action of the management of UCO Bank, Goadvaga, Distt. Sambalpur in terminating the services of Sri Manobhanjan Bhoi, Sub-staff with effect from 19-8-92 and not giving him the one-time opportunity for absorption in terms of the Approach Paper circulated by the Ministry of Finance in 1990 is justified? If not, what relief is the said workman entitled to?”

2. In the written statement it has been stated by the 2nd party workman that he was appointed as an employee in Goadbhaga branch of the UCO Bank with effect from 26-3-88 on daily wage basis. The 2nd party was working continuously from 26-3-88 to 19-8-92 when he was refused employment, with one or two days break in every three months interval. The 2nd party was doing the job of Daftary, cash-peon and other job assigned to him from time to time. The jobs performed by the workman were similar with that of jobs performed by the permanent employees of the bank of his grade.

3. The 2nd party was being paid wages at the rate of Rs. 8 per day during 1988 and at the rate of Rs. 10 per day from 1989 until terminating which is less than the minimum wages fixed by the Government. When the head office of UCO Bank issued circular dt. 19-10-89 to treat all the daily rated worker who have completed 240 days of continuous service as regular employees of the bank, the 2nd party submitted necessary applications for his regularisation, but the Branch Manager with ulterior motive refused to accept the same, and without assigning any reason the Branch Manager refused employment to the workman w.e.f. 19-8-92 illegally.

4. Since the workman has completed more than four years of continuous service in the bank. So the refusal of employment to the 2nd party w.e.f. 19-8-92 amounts to retrenchment. So he prays for reinstatement with full back wages.

5. The management in its written statement has stated that there are twenty nationalised banks in the country and in its branches some irregularities had crept up in the matter of engagement of sub-staff. For that three trade unions representing the workmen of UCO Bank and the management of the Bank promoted a settlement on 12-10-89 for regularisation of such casual/daily wage employees. There are several eligibility criteria in the settlement. As the 2nd party was engaged as a water boy to supply water to the staff and customers on daily wages basis, he could not fulfilled the eligibility criteria for absorption in the bank. His main duty was to supply waters to the staff and customer during summer season only. The 2nd party had never worked as a subordinate staff in the said branch nor he performed any of the duties required to be done by the subordinate staff.

6. As Sri Jeevan Singh Mall was working as daftary and Picho Bariha as cash peon in the said branch, there was no necessity to engage the 2nd party as such. As per the norms of the settlement it has been specifically agreed that those who have been engaged as water boys on daily wage would not be eligible for being considered for absorption under the settlement. So the claim of the 2nd party is not legal and justified and hence the management prays to answer the reference in their favour.

7. On the aforesaid pleadings of the parties the following issues were framed :

I : Whether the reference is bad in law?

II : Whether the action of the management of UCO Bank, Goadbhaga, District : Sambalpur in terminating the services of Sri Manobhanjan Bhoi, sub-staff w.e.f. 19-8-92 and not giving him one-time opportunity for absorption in terms of the Approach Paper circulated by the Ministry of Finance in 1990 is justified?

III : To what relief, if any, the 2nd party workman is entitled to?

8. In order to prove their case, the management has examined two witnesses in their favour and the 2nd party has examined himself only in this case.

9. Issue nos. I to III.—I will take up all these issues together for the sake of convenience. It is the specific case of the 2nd party workman that he was engaged in that bank on daily wage basis in 1988 and worked during the banking hours on all the working days and has been improperly debarred from being empanelled for absorption in the bank permanently. This has been denied vehemently by the management. M.W. 1 has categorically stated that the 2nd party workman was first time engaged in the bank in 1990 as water-boy only to supply water to the staff and customers in summer season and he was engaged as a casual worker. M.W. 2 also states that the 2nd party workman was engaged as water boy. If their version is accepted as true, then he was engaged only during the summer season, for three months or 89 days and he started work in 1990. But the workman giving evidence in court has claimed that he was engaged in 1988 and not as a water boy and he was working throughout the year on bank working days on daily wage basis. He was doing multifarious work like cleaning the bank pre-

raises, supplying snacks to the staff, supplying water to the staff, giving bank intimation to the customers and also maintaining the balancing register of the bank at times. He proves Exts. B, C, D, as the balancing register of the dated 31-5-88, 21-11-88, 30-11-88 and 31-12-91 maintained by him in his own hand. He admits that he was receiving his wages as direct cash and at times his wages were being deposited in his bank account. This has been admitted by M.W. 1. The workman has further stated that on 6-3-92 he was sent to Sambalpur by the bank on official duty for which he was paid T.A. of Rs. 25 vide Ext. F. On 9-4-92 he did extra work in the bank for which he was paid Rs. 20 vide Ext. G, on 16-8-91 he was sent to Brajrajnagar on official duty i.e. for carrying official cash for which he was paid Rs. 25 as T.A. vide Ext. E/26. He was also paid bonus every year and proved Ext. E/56 (Bonus for the year 1991/92).

10. These documents i.e. balancing register of the bank vide Exts. B, C, D clearly shows that the 2nd party workman was serving in that bank starting from 1988 as claimed by him. Exts. C & D are of the dates 21-11-88, 30-11-88 and 31-12-91 and Ext. E/26 is of the date 16-8-91. His working on those dates clearly proves his case that he was not a seasonal worker engaged only for summer season. This negatives the claim of the management that he was engaged as a water-boy. Moreover the maintenance of Exts. B, C & D by him, his going to Sambalpur, Brajrajnagar on official duty show that he was engaged in the bank for doing multifarious work as a sub-staff. Although it is proved beyond doubt that he was engaged in the year 1988 and working in the bank throughout the year doing various types of work as a sub-staff, an appointment order was issued to him on 20-4-92 vide Ext. 1 showing his engagement as water-boy. In view of the above discussion, no importance can be given to this appointment order.

11. I have already discussed that the workman has filed number of vouchers and other documents showing his engagement in the bank on months beyond the summer season. It has been admitted by M.W. 1 that at times the workman was receiving cash directly towards his wages. So his wages for all the days have not been deposited in the bank account. Apart from this, deposit in the savings bank account he has received his wages by way of cash which must have been mentioned in the bank register. So the burden is on the management to prove that actually he was not engaged for whole of the year, by showing the register where his receiving cash directly has been mentioned. Taking those dates into calculation within wages for the days deposited in the bank, his working days in a year could have been easily proved. The management has not done this. So I must accept that he was engaged in the bank continuously for 240 days before his termination.

12. I have already discussed that the workman was not engaged as a water-boy. The management entered into a settlement on 12-10-89 with the trade unions regarding engagement of casual daily rated workers in the sub-staff category. According to that settlement the water-boys were debarred from

absorption under this settlement in the bank. I have already held that the workman was not engaged as a water-boy. So he cannot be disqualified for his empanelment for absorption as sub-staff in the bank on that ground if he was otherwise eligible.

13. If 2nd party desires for his empanelment, then he should file application in the proper manner and the management should treat it as filed in April, 1992 (as stated by the workman in para-5 of his deposition). If his application is allowed, he should be empanelled from that day and in that case, he is entitled for back wages for his disengagement from services by the management improperly. In case the workman was found not otherwise eligible for his empanelment, then he is not entitled to back wages as ordered above. Accordingly all issues are answered.

Accordingly the reference is answered.

ALAK KUMAR DUTTA, Presiding Officer.

नई दिल्ली, 8 सितम्बर, 1999

का०प्रा० 2810:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-99 को प्राप्त हुआ था।

[सं० एल-12012/109/96-आई प्रार (बी-II)]

सी० गंगाधरन, अवसर सचिव

New Delhi, the 8th September, 1999

S.O. 2810.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workman, which was received by the Central Government on 1-9-99.

[No. I-12012/109/96-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL AT CALCUTTA

Reference No. 17 of 1997

Parties :

Employers in relation to the management of Andhra Bank

AND

Their workmen

Present :

Mr. Justice A. K. Bhanu Prasad, Presiding Officer.

Appearance :

On behalf of Management.—Mr. Dipak Kumar Ghosh, Advocate.

On behalf of Workmen.—Mr. Prabir Kumar Ghosh, Advocate.

STATE : West Bengal INDUSTRY : Banking
AWARD

By Order No. L-12012/109/96/IR(B-II) dated 12-5-1997 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Andhra Bank, Zonal Office, Calcutta in not giving telex operator allowance carrying post to Shri Bishnupada Banerjee is legal and justified? If not, to what relief the said workman is entitled ?”

2. The present reference has arisen at the instance of Andhra Bank Employees' Association (in short the union) for denial of telex operator allowance to the concerned workman, Bishnupada Banerjee by the management of Andhra Bank, Zonal Office, Calcutta (in short the management).

3. Union's case, in short, is that the Bank has several branches in West Bengal and that several posts carrying special allowance which are offered to its employees on seniority basis. A settlement was arrived at between the parties on 18-3-1981 on the basis of which a circular dated 24-3-1981 was issued which provided for procedures for selection to the said posts. The Bank issued notification dated 12-6-1995 for filling up the vacancy of the post of Telex Operator at the Bank's Calcutta Main Branch, where the following eligibility criterion was prescribed :

“All clerical staff possessing a valid typewriting higher qualification certificate (40 words p.m.) are eligible to apply for the said post.

All the willing and eligible staff members in the clerical cadres working in the branches/offices in the city of Calcutta and Howrah may apply for the post.

The vacancy shall be filled up in order of seniority in the cadre, in the unit, from those who have opted for the post.”

Pursuant to the notification the concerned workman applied for the said post and his application was forwarded to the Zonal Office for processing and selection along with other applications. The Bank selected one Tanmoy Kumar Basu who joined the bank's service on 24-8-1982 rejecting the candidature of the concerned workman who joined the service long before on 24-2-1978. Being aggrieved the concerned workman sought for explanation for rejection of his claim and the management by its letter dated 13-10-1995 informed him that he did not come within the zone of consideration for selection of Telex Operator since he has not fulfilled the eligibility criteria. The concerned workman was further informed that as per existing agreement on special allowance an employee shall not be entitled to opt for special allowance post after he

has surrendered his right for the same once. The concerned workman has denied the alleged surrender of his right. It is alleged that he had applied by his letter dated 22-4-1991 for temporary relief from the duty of Joint Custodian Cashier, which was a special allowance carrying post, as his wife was seriously ill for a prolonged period and the management allowed his prayer by posting him for discharging general duties and so the management was not justified in rejecting his candidature from special allowance carrying post. The concerned workman protested against the action of the management without any effect. He then referred the matter to his union and all attempts of conciliation in this matter having failed, it was referred to the Central Government which in turn has referred the matter to this Tribunal for adjudication. The union accordingly prays that the concerned workman be posted in the special allowance carrying post of Telex Operator retrospectively with effect from 12-10-1995 with all consequential benefits.

4. The management of Andhra Bank in its written statement took some preliminary points which do not require any mention as none of such points were pressed at the time of hearing. On the facts it's case is that the candidature of the concerned workman to the post of Telex Operator was justifiably rejected in the light of the settlement dated 19-3-1981 arrived at between Andhra Bank and Andhra Bank Employees' Union and circulated by Bank's circular No. 82/STF/21 dated 24-3-1981 and the subsequent circular No. 23/PER/6 dated 18-1-1982. The management denied that the concerned workman asked for temporary relief from the duties of Joint Custodian Cashier and has alleged that it was a categorical assertion on the part of the concerned workman to forego his special allowance post. Management's further case is that there is no provision either in the tripartite settlement dated 19-3-1981 and/or in the circular dated 24-3-1981 permitting any conditional foregoing of special allowance by any employee. The concerned workman thus having joined the general duty after relinquishing the post of Joint Custodian Cashier voluntarily, he lost his right for appointment again in any special allowance carrying post. Management accordingly prayed for dismissal of the case of the union.

5. Union filed a rejoinder denying the allegations of the management in its written statement and reiterating that the Bank was not empowered to incorporate or import any new provision in the original settlement of 19-3-1981 and the Bank's circular dated 18-1-1982 running counter to the settlement has no relevance in the instant case. The other allegations are merely repetition of the case made out by the union in its written statement.

6. Heard Mr. Prabir Kumar Ghosh, learned Advocate for the union and Mr. Dipak Kumar Ghosh, learned Advocate appearing for the management.

7. Apart from production of certain documents, the union has examined the concerned workman as its sole witness, while the management examined two witnesses for their respective cases.

8. The facts are all admitted in this case. The concerned workman had been working as Joint Custodian Cashier in the Burrabazar Branch of Andhra

Bank from 1-7-1985 to 30-4-1991. Joint Custodian Cashier is a post carrying special allowance. On 1-5-1991 he handed-over charge of the post and resumed his general duties as a clerk of that branch. According to the union his posting to general duties was done merely as a relief measure for his personal difficulty, while according to the management it was surrender of the special allowance carrying post.

9. The question of transfer of an employee from a post carrying special allowance to a post of general duties has some importance in this case. For this purpose reference may be made to the letter of the concerned workman to the Manager dated 22-4-91, marked Ext. M-1 and Ext. W-6 in this case from which it will appear that he sought for his posting because of his personal difficulties. From the concluding portion of his letter it will appear that it was without prejudice to the right of the concerned workman to apply for the post of Joint Custodian Cashier if such vacancy arises in future in any branch. This portion of the letter certainly cannot be said to mean that he wanted to reserve his right to any appointment in any special allowance carrying post in future. At best, it can be said that he wanted that his right to apply to the post of Joint Custodian Cashier arising in future to remain alive. The letter, therefore, clearly indicates that he relinquished all his right to apply for appointment to any special allowance carrying post, excepting the post of Joint Custodian Cashier. The right for appointment in any special allowance carrying post having thus been clearly relinquished by the concerned workman, he cannot have any right to protest against the action of the management for not taking his case into consideration for appointment to the post of Telex Operator. It may be incidentally mentioned here that nothing was brought to the notice of the Tribunal to show that there is any provision for temporary relief from special allowance carrying post or conditional surrender of such post.

10. Both sides, however, relied strongly on the tripartite settlement dated 19-3-1991 in support of their respective cases. The tripartite settlement is marked Ext. W-1 in this case. It was submitted by Mr. Prabir Kr. Ghosh, learned Advocate for the union that there is nothing in this settlement justifying the management's contention that surrender of any special allowance carrying post by any employee shall debar him from his future appointment to such posts. The concerned workman as WW-1 and MW-2, an officer of the Bank stated in their evidence that there is no provision in the tripartite settlement that an employee shall lose his right of appointment to any special allowance carrying post in future, once he forgoes his right to the same. There is one provision, i.e., Item No. 5 of the settlement which lays down that "every employee who is drawing any Special Allowance for at least one year continuously shall be eligible for conversion to general duties foregoing the Special Allowance." The settlement, Ext. W-1 does not spell out the consequence of foregoing of such special allowance. The consequence of such foregoing of special allowance shall however be found in the circular of the Bank dated 18-1-1982, marked Ext. M-2 in this case. Ext. M-4 clarified the same position. Paragraph

2 of this circular runs as follows : "All employees who have drawn special allowance for a period stipulated in terms of Clause 5 of the settlement dated 19-3-81 and have subsequently foregone the same for conversion to general duties, shall not be entitled to opt for entitlement of special allowances subsequent to such foregoing and conversion".

11. This circular was challenged as useless by Mr. Prabir Kumar Ghosh for the union as there is no corresponding provision in the tripartite settlement to that effect. Mr. Dipak Kumar Ghosh for the management however contended that though there is no specific provision about the consequence of foregoing of special allowance carrying post still, any circular which does not run counter to the letter and spirit of the settlement shall be effective between the parties. I agree with Mr. Dipak Kumar Ghosh on this point as there is nothing in the settlement about the position of those employees foregoing special allowance at any point of time. Even apart from that I find that the circular was not issued by the management arbitrarily without any consultation with the union. It is specifically mentioned in Clause 13 of the tripartite settlement that "If any doubts or difficulties arise regarding the interpretation of any provisions of this settlement, the matter shall be taken up only at the Central Office of the Bank and with the Andhra Bank Employee's Union for discussion and settlement." It will appear from the circular itself that the clarification made therein was mutually arrived at in terms of that provision of the settlement. The concerned workman, therefore, is bound by the said circular.

12. It is true that the notification for appointment to the post of Telex Operator does not specify that above condition shall operate as a bar for applying to the post. It is immaterial whether that position was stated or not in the notification as all employees are bound by the terms and conditions laid down in the settlement. I have already stated that the relevant circular for this purpose having been issued in terms of the provisions of the settlement, there is no escape for any of the employees to avoid the condition laid down in the circular. The employees being already bound by the circular, no special reference of that condition in the notification for appointment was necessary. Even if the same was not mentioned, there was no lack of bona fide on the part of the management in rejecting his application as the concerned workman was intimated on his query by the management that his case could not be considered because he did not fulfil the eligibility criteria which was further clarified that foregoing of special allowance carrying post once shall disentitle an employee for applying to such post again.

13. The concerned workman having thus voluntarily and categorically foregone his right to the special allowance carrying post, he has no right to apply for similar assignment in future in terms of the circular. I have already shown that even apart from the circular, the union has not succeeded in proving that the concerned workman reserved his right for consideration to every other special allowance carrying post in future or that the management was bound to consider his case even though he has foregone his special allowance carrying post once. So, on any

view of the matter the concerned workman has no right to claim the post of Telex Operator, once he had foregone the special allowance carrying post of Joint Custodian Cashier,

14. So, upon consideration of the facts, circumstances, evidence on record and the position of law in the matter, I am to hold that the action of the management in not giving telex operator allowance carrying post to the concerned workman was legal and justified and no interference in this matter is called for.

15. The workman accordingly shall not be entitled to any relief in this case.

This is my Award.

Dated, Calcutta,

The 20th August, 1999.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1999

का.आ. 2811.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय सोलापुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-99 को प्राप्त हुआ था।

[सं० एल-12012/321/96-आई प्रार (बी-II)]

सी. गंगाधरण, प्रवर सचिव

New Delhi, the 8th September, 1999

S.O. 2811.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Solapur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 01-09-1999.

[No. L-12012/321/96-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE COURT OF PRESIDING OFFICER,
FIRST LABOUR COURT, SOLAPUR,
AT : SOLAPUR.

Reference (IDA) No. 21/97

Dispute in between—

The Regional Manager,

Bank of Maharashtra,

Gaikwad Building, Solapur,

... Ist Party.

AND

The General Secretary,

Bank of Maharashtra Karmachari

Sangh, 185, Shaniwar Peth,

Pune-30.

... II Party.

CORUM :

S. N. Kamble, Presiding Officer, First Labour Court, at Solapur.

APPEARANCES :

(1) Shri Ashok Poojari, Union Regional Secretary for second party.

(2) Shri R. V. Demale, Adv. for first party employer alongwith Shri P. N. Murty, Manager Personnel.

AWARD

(Delivered on 12th August, 1999)

The Central Government being the appropriate Government has referred this dispute for adjudication through Government of India|Bharat Sarkar Ministry of Labour|Shram Mantralaya, Shram Shakti Bhawan, Refi Marg, New Delhi-110001, dated 18-8-97 vide order No. L-12012/321/96|IR(B-II) U/s. 10 Sub-section 1(d) and 2(A) of the Industrial Disputes Act, 1947 to adjudicate the dispute in terms of order of reference mentioned in schedule, with intimation to the following mentioned authorities, under rule 10(B) of the Industrial Disputes (Central) Rules, 1957.

(1) The Ministry|Department of M|of Finance (Banking Dvn.) New Delhi.

(2) The Regional Labour Commissioner (C), Mumbai.

(3) The Assistant Labour Commissioner (C), Pune their file No. 7(12)96.

(4) Adjudication Folder.

SCHEDULE

"Whether the action of the management of Bank of Maharashtra in relation to its Sekhar Peth Branch in terminating the services of Shri V. S. Joshi, w.e.f. 22-4-96 is justified?"

If not, what relief to which the workman is entitled?"

2. Upon receipt of the above orders of reference this Court has issued notices to the parties concerned calling upon them to file their statement of claim and written statement respectively, and in turn the second party filed his statement of claim at Ext. U-3 and rejoinder at Ext. U-5. That first party has filed its written statement at Exh. C-2 and put-up their respective stand in support of claim and in rebuttal thereof.

3. The second party is a union named Bank of Maharashtra Karmachari Sangh and it has espoused the grievances of one Mr. V. S. Joshi, alleging that the first party has terminated the services of the said individual V. S. Joshi, illegally and the action of the first party management is not justified in the eyes of law. At the outset, the second party has claimed that, the first party is Bank of Maharashtra and is a Nationalised Bank having its Branch at Sakhar Peth, Solapur and second party is an Union

registered under the Trade Unions Act, 1926. So far these facts are concerned there is no dispute amongst the parties to this reference. The union has then alleged that, the first party Bank had decided to start a deposit scheme namely "Lokmangal Daily Deposit Scheme" at its Branch at Sakhar Peth, Solapur. In consonance with its decision the first party had entered into an agreement with Mr. V. S. Joshi on 6-8-81 thereby appointing him as an authorised agent for the said scheme at Sakhar Peth Branch. The initial agreement was for three years and the period of agreement was extended till 20-10-95. There were no breaks or interruptions in continuing the said agreement.

4. Coming to the point of dispute raised in the present reference the Union has submitted that, since 6-8-81 Mr. V. S. Joshi continuously was working as an authorised representative for tiny deposit collection under control, supervision and power of the first party Bank. His nature of duties to which he discharged were that of :

- (a) Collection of deposit amount.
- (b) Issuing receipts.
- (c) Maintaining records etc.

He worked with first party in every year for 240 days, and thereby he earned the status of the employee of the Bank. The union has therefore claimed that their subsists relationship of employer and employee in between first party and Shri V. S. Joshi, correlated with the employment of the said Joshi. By nature of duties, said Joshi is emenable to the expression "workman" as defined U/s. 2(s) of the I.D. Act, 1947. The further grievance of the Union in respect of the activity of the Bank is that, the first party Bank has issued a letter dated 20-10-95 to said V. S. Joshi thereby informing termination of his appointment w.e.f. 1-12-95 under the guise that it has decided to discontinue the operation of the scheme of "Lokmangal Daily Deposit Scheme" and also published a public notice in Local news paper for the Information of depositors accordingly. According to the Union this was an abrupt act on the part of the first party Bank. The Union has further highlighted the facts that, the first party Bank did not discontinued the operation of the said scheme runned through other branches of the same bank, nor terminated any other authorised representative appointed by the bank against the scheme. Hence the Union speaking for V. S. Joshi has claimed that the action to terminate Joshi w.e.f. 1-12-95 vide their letter 20-10-95 is illegal, unfair and unjustified for non-compliance of S. 25-F of the I.D. Act, 1947. It has therefore prayed to this Court to hold that :

- (1) The said termination letter dated 20-10-95 issued to Mr. V. S. Joshi be called upon to withdraw by the Bank.
- (2) The said termination letter dated 20-10-95 authorised representative of the Bank under the scheme.
- (3) Mr. Joshi be taken in service as permanent Regular employee in the cadre of clerk in Sakhar Peth Branch w.e.f. 20-10-95 and.

- (4) Further to grant him any other relief which seems fit to the Court in the interest of justice.

5. By way of Rejoinder the second party has submitted that, the purpose of appointment of Joshi was for mobilisation of the business of the Bank, and further narrated about the working system of the Scheme and performance of duties by the concerned authorised representative appointed to run the scheme. The union has also clarified on the decision referred to by the first party Bank stating that the said decision has no bearing on the present reference as much as the reference order No. L-12011/29/91-D.II(A), dated 21st April, 1983 was :-

- (1) Related to deposit collectors working in various Nationalised Banks in India.
- (2) In the said reference there was Award of the Industrial Tribunal dated 22-12-1988, holding the deposit collectors to be employees of the Bank but these deposit collectors were part-time employees and there is clear distinction in between the case of the second party and the dispute referred and cited by the first party bank.
- (3) In W.P. before the Hon'ble High Court of Judicature, Andhra Pradesh, at Hyderabad by its decision has confirmed that, deposit collectors are workmen.
- (4) The reference and citation of the said case law by the Management is only with the purpose to mislead this Court.

Distinguishing the issues involved in two reference on distinguishing facts governed to the case which was decided earlier and the present reference, the union has further submitted that, the action of the management in respect of Joshi was out of apprehension arose out of the decisions of their Lordship of Andhra Pradesh High Court and the decision of the Tribunal, and time and again reiterated that the action of the Management in terminating the services of Joshi was in violation of Mandatory provisions of S. 25-F of the Industrial Disputes Act, 1947 and it was not only illegal but unjustified.

6. The first party has filed its written statement at Exh. C-2 and strongly resisted to the claim made by second party. Accordingly to the first party Bank, all evernments made by union in its statement of claim are not true and correct and therefore denied all the contents except whatever admitted by it. As regards the contents of para 1 to 5 there is no dispute amongst in the parties. In reply to the contents of para 6 of the statement of claim, the first party has construed it to be an admission on the part of the union that, said V. S. Joshi was in terms of agreement, acting as a Daily Deposit Collector under the Lokmangal Deposit Scheme. The appointment was on contract basis and the agreement had empowered to terminate the contract by issuing Notice of termination. All be it, the first party has denied that the said Joshi was ever appointed as an employee of the Bank and therefore he cannot invoke the provisions of Industrial Disputes Act, 1947 for redressal of his grievances. Said V. S. Joshi was appointed as an authorised representative for Lok-

mangal Deposit Scheme since 6-8-1981 under the agreement on terms and conditions mentioned in the said agreement. It has denied the allegation that Mr. Joshi had acquired status of an "employee" of the Bank. It has further denied substance of relationship of master and servant in between them; and further submitted that said Joshi was appointed Agent against the Lokmangal Deposit Scheme on commission basis. They emphasised without citing the Supreme Court Judgements in which according to the first party Supreme Court has held that "employees engaged to procure business or sales, do not fall within the definition of a 'workman' as contemplated under the Industrial Disputes Act, 1947" and on the said pleading has claimed that the present reference is not maintainable. It has prayed to take up the issue of maintainability of reference as a preliminary issue. It has further raised an objection about representation of Joshi by union and called upon it to produce membership proof of Joshi with union. The first party has termed the relation in between Joshi and it as Agent and Principal. It has disputed that engagement of Joshi was for collecting deposits from public and for the purpose of Bank's business. The first party has submitted that, Mr. Joshi was prohibited from discharging any other duties for and on behalf of the bank, and further clarified that whatever record was to maintain by Joshi was in furtherance of collection of deposits from public in the bank and it was not the work related to the Bank. They therefore denied the allegation that Mr. Joshi is a 'workman' and bank in relation to him as 'employees'. The first party then justified its action submitting that, its action was in consonance with the provisions mentioned in the agreement. They also submitted that, to start/close/discontinue any scheme is prerogative/discretion of the management it being purely a policy matter. The bank is guided by various factors for launching and/or closing a scheme. Since the Lokmangal Daily Deposit Scheme at Sakhar Peth Branch at Solapur was not found viable the bank has decided to close the said scheme and hence they issued notices to depositors. The first party has also alleged that, Mr. Joshi did not achieved the target expected under the scheme. It has followed due process of law while discontinuing or terminating contract. In view of these facts, it is open for it to operate any scheme in other branches or even to close it. The first party has claimed that it is its right to terminate any agreement and to withdraw any scheme. They also claimed that termination of specific contract for specific purpose with Joshi and provisions of Section 2(oo)(bb) is not attracted in his case.

7. The first party has denied allegation of violation of Sec. 25-F of I.D. Act, 1947. In order to show as to how Mr. V. S. Joshi was not an employee of the Bank the first party has pointed out the following facts viz.—

- (i) Joshi was not required to sign the attendance register/Muster-roll maintained in the Bank.
- (ii) He was not liable to transfer from one place to another.
- (iii) The service conditions applicable to other employees of the bank were not applicable to him.

- (iv) Contract of Agency does not require him to work exclusively for the bank.
- (v) There were no fixed honours of his work and there were no fixed norms of work.
- (vi) There was no obligation on Joshi to obey orders of superiors as is required to other employees of the bank and hence the first party has claimed no control, and supervision on Joshi.

For all the above reasons the first party has denied Mr. V. S. Joshi is a workman. Hence prayed to reject and dismiss the reference in toto.

(8) Considering the rival contentions raised by the parties to the present dispute this Court has framed the issues below Exh. 0-3 which are reproduced below :—

ISSUES

- (1) Does the second party proves that, by working as an authorised representative for tiny deposit collection under the supervision, control and power of the Bank, he has acquired status of an employee of the bank and there subsists relationship of employer and employee in between them?
- (2) Whether he further proves that, he is workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947?
- (3) Whether he proves that, deciding to discontinue the operation of the Scheme and issuing of letter dated 20-10-95, amounts to termination/retranchment and it is illegal?
- (4) Does the first party proves that, the second party is not governed by provisions of Industrial Disputes Act, 1947 because he was connected with it as an authorised representative on the strength of agreement dated 6-8-1981?
- (5) Whether prerogative/discretion vested in the management based on agreement dated 6-8-1981 can empower the management to adopt discriminative acts with regard to particular person, and it is just and proper and does not attach any illegality?
- (6) Whether the first party proves that, their action is governed by S.2(oo)(bb) of the Industrial Disputes Act, 1947 and hence not "retranchment" and therefore they are not bound to comply S.25-F of the I.D. Act?
- (7) Does the complainant proves that, the action of the first party is not justified in law and therefore he is entitled to the reliefs as prayed in para 12 of the statement of claim?
- (8) What relief and award?

Note : Issue No. 2 shall be decided as preliminary issue in first preference alongwith other issues.

And I have recorded my findings against each issue for the reasons to follow :—

- (1) Partly allowed.
- (2) Yes.
- (3) Yes.
- (4) No.
- (5) No.
- (6) No.
- (7) Yes.
- (8) Relief as per award.

REASONS

- (9) At the out-set, I must clarify about my jurisdiction. For the purposes of Industrial Disputes Act, 1947 this Court has been constituted U/s. 7 of the Industrial Disputes Act, 1947 by State Government of Maharashtra Section 10 empowers the appropriate Government to refer disputes to the Courts for its adjudications. The present dispute has been referred by the appropriate Government i.e. Central Government in exercise of powers conferred by clause (d) of Sub-section (i) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947.

S.10(1)(d) : “refer the dispute or any matter appearing to be connected with, or relevant to the dispute, whether it relates to any matter specified in the second schedule or third schedule, to a Tribunal for adjudication;

(Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Government may, if it so think fit, make the reference to a Labour Court under clause (c);)

[(1) Provided also that where the dispute in relation to which the Central Government is appropriate Govt. it shall be competent for that Government to refer the dispute to a Labour Court or an Industrial Tribunal, as the case may be, constituted by the State Govt.]. This proviso has been inserted in the principal Act, by an amendment effected by Act, No. 46/1982 and implemented w.e.f. 21-8-1984. The proviso (C-1A) since does not fall for consideration same is not reproduced.

Thus from the above amended proviso to Section 10(1)(d) proviso (1) the appropriate Government; the Central Government has also having authority to refer the disputes to be adjudicated by the Labour Courts constituted by State Government, and as such this Court has jurisdiction to entertain the present reference referred by the appropriate Government i.e. Central Government.

(10) Issue No. 2:—There are admitted facts governed to the fact in issue as to whether the second party whose dispute has been espoused by Union is a workman or not. The admitted facts are as follows —

ADMITTED FACTS

- (a) There was an agreement took place in between the Bank management and Shri V. S. Joshi about appointing him to be an authorised representative to work in Lokmangal Daily Deposit Scheme to collect deposits from Tiny Depositors in the area and jurisdiction of Sakhar Peth Branch of the Bank i.e. first party.
- (b) As per agreed terms Mr. V. S. Joshi was allowed to collect Tiny deposits from public.
- (c) The collection of deposits were restricted to certain number of accounts.
- (d) The terms and conditions to execute the work under the scheme was settled by an agreement.
- (e) For the work done under the agreement on the scheme he was given commission.
- (f) For collection of deposits he was required to go house to house and shops to shops.
- (g) He was also required to prepare documents to maintain the accounts of individual depositor with the concurrence of the Bank.
- (h) The products of his work was required to be deposited with the bank.

On these counts there is no dispute amongst in the parties.

(11) The second party has adduced his oral and documentary evidence before the Court. The first party however, did not adduced any oral evidence before the Court and passed a pursis to that effect which is at Ex. C-6. The evidence adduced by second party in support of their contention is recorded at Ex. U-8 and Ex. U-11. At Exh. U-8, the second party has choose to adduce evidence of the affected person Shri V. S. Joshi who deposed that, he came to be appointed by first party bank as a daily deposit collector in its Solapur branch w.e.f. 16-11-75 and was also working with the said Branch of the Bank w.e.f. 6-8-81 as per agreement. He placed on record the said agreement Article-A. Then deposed, the agreement is in respect of his job related to a scheme Lokmangal daily deposit scheme. Then he deposed as to how and in what manner he was to perform the work in furtherance of execution of the Scheme which is not in dispute. He also deposed what documents were required to maintain and prepare by him in order to maintain record in respect of deposits made by every individual, and it was subject to check and verification by the banking officials or authorities. He deposed that he was allowed to receive deposits from customers from Rs. 1 to 50 and maximum accounts were 200. He also deposed on the nature of work he was required to perform and specifically deposed that he was debarred from receiving any such collection for other bank. He was paid commission at the rate of 3.25 per cent to the extent of collection of Rs. 10,000 and for the collection above 10,000 the commission for the additional was at the rate of 3.25 per cent. Out of the admissible commission bank used to retain

10 per cent of commission towards security deposit with it. He was provided 100 per cent interest free vehicle loan, and on achieving of collection exceeding 30,000 bank used to pay him Rs. 75 towards petrol allowance. In case Mr. V. S. Joshi feels that he is unable to execute his routine work he was required to give intimation to the bank in writing. He also deposed on the point that the running of Lokmangal daily deposit scheme was one of the activity of the bank's business. He deposed; "The bank used to pay interest to the customers if they kept their deposit; at least for 18 months at the rate of 2 per cent and for 24 months at 3 per cent rate whereas if the deposits are kept for 30 months rate of interest was 4 per cent. He further deposed that, there was maximum limit for the customers to keep their deposit with the bank and in case any depositor has withdrawn his deposits, the commission paid on the basis of the collection made by authorised agent was to be proportionally received from the customer. The bank was also used to advance loan to the customers charging interest at the rate of 11 per cent. On the basis of this evidence adduced by the second party, Shri Poojari appearing for the second party has contended that, he has proved all most all ingredients which requires to say a person so discharging his functions in furtherance of his employment is a workman.

(12) He invited my attention towards the definition of workman given in S.2(s) of the Industrial Disputes Act, 1947, which discloses following ingredients to say any person employed in Industry to be a workman.

- (i) He must be employed in any Industry.
- (ii) He must be doing any of the work i.e. manual unskilled, skilled, technical, operational, clerical or supervisory work.
- (iii) He must do said nature of work for hire or reward irrespective of the terms of employment are express or implied; and
- (iv) (a) He should not be subjected to Air Force, Army or Navy Act, and
- (b) He should not be employed in police service or employee of a prison;
- (c) He should not be employed mainly in Managerial or administrative capacity; or
- (d) He should not be employed in supervisory capacity; draws wages exceeding 1600 P.M. of exercises the duties attached to his office which are functions mainly of a managerial in nature.

He further argued that, it is well settled that Bank is an industry, and the scheme i.e. Lokmangal Daily Deposit Scheme was run by the bank. The bank had appointed to Shri V. S. Joshi, for execution of the said scheme and therefore the appointment of V. S. Joshi was against the employment which accrued due to starting of daily deposit scheme. Mr V. S. Joshi was paid by way of commission and his nature of duties were that of the clerk. Further he does not fall in any of the exclusionary clauses of the definition and therefore he is workman. There is much force in this arguments. On the other hand Shri

Murty the representative appearing for and on behalf of the first party bank tried to rebut the said contention of Pujari pointing out that Mr. V. S. Joshi was simply working as an agent of the bank in terms of agreement. He was not paid wages, but he was paid with commission. There were no prescribed hours of work to the said V. S. Joshi, and said agent was free to undertake work anywhere else as per his own convenience or wish. There was no control and supervision of the Bank on the work of said V. S. Joshi and therefore he does not fall within the per-view of the expression 'workman'. He has placed heavy reliance on the fact that the said V. S. Joshi was not appointed as per recruitment Rules made applicable to Banking employees, and that his appointment was based on an agreement being an agent or authorised representative of the Bank. Shri Murty did not agree with Pujari that only because bank is an Industry and he was employed by the Bank as representative, and he was required to perform the works alike that of a clerk on commission. He i.e. Shri Joshi has satisfied the test to qualify him to be a workman within the meaning of S.2(s) of the Industrial Disputes Act, 1947. According to him there is difference in between 'workman' and 'Agent'. He distinguished and denied to status of Shri V. S. Joshi to be a workman on the grounds that;

- (i) Mr. V. S. Joshi was not given any appointment as an employee of the bank.
- (ii) His appointment was not made adhering the recruitment Rules of the Bank;
- (iii) He was not paid fixed wages, but was paid only commission and;
- (iv) There was no control over the work of Shri V. S. Joshi.

There essentials according to Shri Murty does not confer any status on V. S. Joshi to be an employee or workman of the bank, and therefore Mr. V. S. Joshi does not qualify himself to be covered under the expression "workman". These arguments of both the parties are equally impressive and it needs to be tested on the touch-stone of law and decided case law.

(13) As far as the working of Shri V. S. Joshi as an authorised agent on the basis of agreement dated 6-8-81 is in no dispute. Similarly the working procedure adopted either by bank in respect of his authorised representative as deposed by Joshi, preparing of different documents in the discharge of the duties in terms of agreement and the nature of duties are not in dispute. The second party has placed on record a document "Article-A" i.e. the agreement dated 6th August, 1981. The said document discloses that Mr. V. S. Joshi was appointed as an authorised representative of the bank under the Lokmangal Daily Deposit Scheme on the terms and conditions contained and agreed to accept such appointment.

The terms and conditions of Agreement in spirit and substance.

- (i) The initial appointments was for 3 years subject to extension by mutual agreement.
- (ii) He would be governed by the Rules and provisions of the Scheme i.e.

- (a) He was allowed to collect deposits from more than 200 persons and this persons were maximum.
- (b) The allowed deposit collection was in between the range of Rs. 1 to 50 only.
- (c) There were restrictions put in the manner of collecting deposits and deposit of the collection with the Bank during business hours.
- (d) The work was subject to payment of commission @ 3 per cent on the collected amount.
- (e) There was also a condition to inform to the depositors about inability of collection of deposits and to bank.
- (f) To maintain record of deposits.
- (g) There was also a condition agreed by A.R. that he will not engage himself in a similar capacity for any other bank.
- (h) The further condition in respect of termination of agreement to give one month's notice to the bank with further restriction conferring rights on the Bank to terminate or suspend of contract in case of breach of conditions of the agreement.
- (i) The discretion to suspend the operation of the scheme was conferred upon the Bank.
- (j) Even discretion was conferred on the bank to discontinue the scheme in its entirety.

All these facts have been reiterated by Shri V. S. Joshi in his evidence and there was no reason for the first party bank to rebut the same as it was merely the reflection of the various terms and conditions that were incorporated in the agreement dated 6-8-81. Probably due to this reason the first party bank might have filed a pursis at Exh. C-6 that it does not want to examine any witness in the matter. However, the facts in issue does not lost its significance because the document Article 'A' is an undisputed document which is sufficient to consider while appreciating the arguments advanced by Shri Murty who has distinguished the facts in order to deny the status to Mr. V. S. Joshi on the ground that the said Joshi is simply an Agent of the Bank and the relationship of the bank with V. S. Joshi is that of Principal and Agent.

To appreciate the arguments of both the parties, who have put forth rival claims, it is needed that the expression Agent or representative needs to be understood as is contemplated in the law. The fact is that the expression "Agent" or "Representative" have not been defined anywhere under the Industrial Disputes Act. In Venkataramiya's Law of Lexicon with legal Maxims 2nd Edition at page 97 the meaning assigned to the Expression 'Agent' is as under :—

Agent.—An 'Agent' is a person employed to do any act for another or to represent another in dealings with third persons (Sec. 182, Contract Act). According to this definition, an agent never acts on his behalf but always on behalf of another. He either

represents his principal in any transaction or dealing with a third person, or perform any act for the Principal. The crucial test of the status of an agent is that his acts bind the plaintiff.

Loon Karan Sohaa Lal Vs. Firm John & Co. A.I.R. 1967 (All. H.C.) 308 P. 311.

While assigning meaning to the expression the even the author has given the types of 'Agent'

- (1) General agent, (2) Special agent, (3) Broker, (4) Auctioneers, (5) Del Credere agent, (6) Factors, (7) Commission agents.

The Commission agents.—These are agents who in consideration of a certain commission engage to purchase or sell good for their principals.

At page 98; in the above cited Law Lexicon, the author has also highlighted on Agents lien :—

Agents Lien.—Both English and Indian Law, confine the lien claimable in his case to commission disbursements and services in respect of certain specific property or things,—

Cawnpore Flour Mills Co. Ltd.

Vs.

Karrundia Industrial Development Co. Ltd; 110 I.C. 23 dt. P. 25; 1928 Notes 186

I have taken note of the expression "Agent" only because Mr. Murty used in his argument this expression synonymous to representative

(14) The agreement however, has not mentioned that Mr. V. S. Joshi to be the Agent but used the expression "Authorised Representative". Let us see the legal meaning attached with the expression "Representatives". In Law Lexicon, the author has assigned the meaning to expression representative as under :—

Representative.—A person who claims or steps in the shoes of another in his representative. Again any one who intermeddles with the property of another is also a representative.

Daulat Ram Vs. Smt. Bhagvati (1963) 65 Punj. L.R. 606 at P. 609

It has also assigned meaning to the expression representative."

"The word 'representative' means and includes all or any one of the persons for whose benefit a suit (under the Act) can be maintained. These persons are the representatives of the deceased in the sense, that they are the persons taking the place of the deceased in obtaining separation for the wrong done. In cases where the deceased is represented by an executor or an administrator such an executor or administrator is given the power to sue for the compensation for the benefits of the specified relations, where there is no executor or administrator or where there is one, and he fails or is unwilling to sue, then the suit may be instituted by and in the name of the representative of the person deceased.

Johnson Vs. Madras Railway Company, I.L.R. 28 Mad. 479 at F. 484

Thus from the above it is clear that, the agent or representative holds the power as good as of Principal. It would not be enough to see the meaning assigned to the expression "Agent" or "Representative" while considering the scope of expression "workman" as Mr. Pujari the learned office bearer of the Union has claimed that he has satisfied the test as contemplated in Section 2(s) of the Industrial Disputes Act, 1947. Let us see section 2(s) :—S.2(s) 'workman' means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical, or supervisory work for hire or reward (Further part of definition is not so important to appreciate in the present case hence not reproduced).

The above definition has employed the phraseology that "Any person employed in any industry". This needs to be understood.

In Law Lexicon at page 2714; the author has incorporated the meaning assigned to a phrase "workman" employed in any industry"—and it is as follows :—

"The preposition "in" before "any industry" in the definition of "workman" has been used by the Legislature to signify the inclusion of persons employed, and not their position or Location, in the industry as a whole. According to the shorter Oxford English Dictionary (rd Ed), the preposition "in" also means "in reference to". Having regard to the legislative object of preventing strikes and lock-outs and maintaining supplies in the country, their Lordships are of the opinion that the expression "employed in any industry" should be construed to mean employment in reference to any industry, business or trade —

Punjab Sugar Mills Co. Ltd. Vs. State of U.P. 1960 A.L.J. 274 at P. 277 : AIR 1960 (All.) 444.

Having such a position of law in respect of the above referred expressions, it needs to determine the status of Joshi.

(15) When the meaning assigned to a phrase or preposition; "workman employed in any industry" should be construed to mean employment in reference to industry. The expression "Industry" has been interpreted by their Lordships of Supreme Court, in the case of Bangalore Water Supply & Sewerage Board Vs. A. Rajappa's case reported in 1978 AIR S.C. 548;

"Industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen or employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature) whether or not :—

- (i) any capital has been invested for the purpose of carrying on such activity; or

- (ii) Such activity is carried on with a motive to make any gain or profit, and includes :—

- (a) any activity of the Dock labour Board established under Section 5-A of the Dock Workers (Regulation of Employment) Act, 1948.
- (b) any activity relating to the promotion or sales or business or both carried on by an establishment, but does not include— (since this part is of no use to appreciate the case of Shri V. S. Joshi it is not reproduced).

The second party has proved in his evidence adduced before the Court that his employment with the bank in daily Lokmangal deposit scheme as authorised representative was for the business of the Bank; and the necessary evidence lies in his deposition that,

"The bank used to pay interest to the customers if they kept their deposit for 18 months at the rate of 2 per cent and for 24 months the rate of interest was at the rate of 3 per cent and after 30 months the rate of interest was 4 per cent." In case any customer withdrawn his deposits within a period of one year then the amount paid as commission was to be get recovered from customer. Whenever the bank pays any loan on deposit of the customer; bank used to charge 11 per cent interest and if the customer wants to close his account then the bank used to deduct the advance loan alongwith interest from deposits of the customer and remaining was paid to the concerned customer."

This sufficiently indicates that collection of Tiny deposits were one of the activity in connection with Bank's business. Thus, the second party has satisfied first ingredient in relation to Shri V. S. Joshi that his employment by the bank was with reference to the business of the bank. The second party has also proved that the nature of work which was to be performed by him being authorised representative of the bank was that of clerical in nature and the second party workman has also proved even the second ingredient to bring him within the coverage of expression 'workman'.

(16) The third ingredient which needs to say that the person has been employed in an industry; in the allowed category of works mentioned in the definition of "workman" U/s. 2(s). It must be for hire or reward. This means he must get remuneration for the services rendered by him. Shri Murthy has denied the status of Shri V. S. Joshi on the ground that, Mr. V. S. Joshi was not paid with wages or salary but it was commission. The question will be necessary implication of these arguments of Shri Murthy would be that whether commission can be said to be wages for work done. The expression 'wages' has been defined by the Industrial Disputes Act, 1947 U/s.2(rr),

S.2(rr).—"Wages" means all remuneration capable of being expressed in terms of money; which would, if the terms of employment, express or implied, were fulfilled, be payable to a workman in respect of his

employment, or of work done in such employment, and includes—

- (i) Such allowances (including dearness allowance) as the workman is for the time being entitled to;
- (ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;
- (iii) Any travelling concession.
- (iv) any commission payable on the promotion of sales or business or both, but does not include—
 - (a) any bonus,
 - (b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any Law for the time being in force;
 - (c) any gratuity payable on the termination of his service.

Thus the argument of Shri Murthy that Mr. V.S. Joshi was not paid wages; does not hold any water as the definition of wages has included the commission as wages. By virtue of the law, I am bound to hold that the commission which was paid in results of fulfilment of the terms of employment were the wages and the second party has also proved the third ingredient that, Mr. V. S. Joshi's employment was for on payment of wages. It is needless to say that, the category of the authorised representative, and his working as a Tiny deposit collection amounts to the managerial functions. Certainly such position in the organisation was not conferred upon him, nor his status falls in any of the exclusionary part of the definition of 'workman'. The second party has therefore proved all these ingredients and on proving of the ingredients at till this scrutiny he has qualify him to be a 'workman' as defined U/s. 2(s) of the Industrial Disputes Act, 1947.

17. Shri Murthy further has assailed the status of Shri V. S. Joshi as not to be a workman, on the ground that, though the nature of duties which were performed by Shri V.S. Joshi being authorised agent it does not create any relationship of master and servant. I have already referred the meaning attached to the expression "Agent" and "Representative" and according to that, agent or representative acts for another. In case of workman right to work with any employer is derived from the contract of service and therefore this aspect needs to be looked in while considering the relationship of Master and Servant. Whether indeed it is a contract of service or contract for service. The difference in between contract of service and contract for service would disclose what sort of relationship exists in between the authorised agent or representative of the bank and the bank. The contract of service is related right to choose for himself whom he would serve whereas contract for service confers status on

the person as an independent contractor. In law of wrongful dismissal by SURANJAN CHAKRAVERTI, Fifth 1969 Edition in Vol. 1 at page 520; the author has dealt with; when can a person be said to be a servant of another ?

"The first point to note is, when can a person be said to be a servant of another ? That is to say when does the relationship of master and servant exist between two persons ? The authorities lay down that in order to create the relationship, there must be following elements in it, namely :—

- (a) The contract to serve must be free act of servant. Even so late as 1940, Lord Atkin, addressing the House of Lords in *Nokes Vs. Doncaster Amalgamated Collieries Ltd.* 1940 A.C. 1014 at P. 1026 stated in respect of an argument that an Act of parliament gave power to transfer the employees of one company to the service of another;

"I confess it appears to me astonishing that apart from overriding questions of public welfare, power should be given to a Court or to any one else to transfer a man without his knowledge and possibly against his will, from the service of one person to the service of another. I had fancied that ingrained in the personal status of a citizen under our laws were the right to choose for himself whom he would serve and this right of choice constituted the main difference between a servant and serf".
- (b) Quoted by Mansfield Cooper in his outlines of Industrial law, P. 3.—The servant must agree to be under the control of the master, both as to the work which he shall execute as also the details of the work and the manner of its execution.
- (c) Where the employer is an organisation, such as Hospital, the fact that an employee is a part and parcel of the organisation has been held to create the relationship, where the organisation has no control over the manner in which he does the work.
- (d) The distinction between a contract of service and a contract for services, that is to say between a servant and an independent contractor should be kept in mind.
- (e) The relationship has to be distinguished from such relationships as exist between principal and agent, bailor and bailee and the like. In the above case i.e. of Mansfield Coopers Outlines of Industrial law, 2nd Edition, the following passage at page 4 has summarised the position concisely :—

"Whenever, therefore, it is necessary to discover whether or not one man is a servant of another the chief inquiry must be directed towards finding who has the power to control. Other factors may help. It may be material to know how and by

whom a person is paid; by whom and in what circumstances he may be dismissed. But these things, though helpful, are not conclusive. For a man may be the servant of another though he receives no payment, as often happens in family enterprises and someone other than his legal master may have power to dismiss him, whilst the number of places in which a man may work, will, in many cases, furnish little aid in tracing his master."

In the case of *Municipal Brough, Dhulia Vs. Ramchandra*, A.I.R. 1938 Bom. 137 it was observed :

"The servants of private employers cannot, therefore, he said to work on pleasure tenure. They are servants on contractual tenure. A mere employment of a servant by a private employer, even on a graded salary scale, does not give the servant a stability of tenure and a promise to keep the servant in service till an age of superannuation.

If the ingredients as narrated above are seen; it is not sure that, only because an agreement was reduced into writing on the terms and conditions of employment, the person so appointed would lost his status as a servant. An without appreciating the contents of agreement it would be wrong to say that, he is simply agent."

17. In order to say whether Mr. V. S. Joshi was or was not servant, we must appreciate the ingredients on the basis of which the relationship of master and servant could be identified. These ingredients are :

- (1) There should be right of choice with the person to choose whom he would serve.
- (2) He must be under the control of his master as to work he shall to execute and also details of work and the manner of its execution.
- (3) He must be part and parcel of the organisation.
- (4) He must not be an independent contractor.
- (5) There should not be relationship of principal and agent, bailor and bailee and the like.

While directing chief inquiry into whether Mr. V.S. Joshi was servant of the bank. It is found as a matter of fact that

- (a) While executing an agreement it was his free and voluntary choice, to serve with the Bank, and he had exercised his that right.
- (b) As per the various terms and conditions of the agreement there was control exercised by the Bank in respect of the work which shall to be discharged by Shri V. S. Joshi. His pay master was the Bank, and undisputedly the first party Bank was paying him the commission for the services rendered by him as per the specification of the employer.

The control exercised by Bank lies in the terms of agreement :

- 2(a) "The A. R. further agrees that he will not be entitled to collect deposits from more than 200 persons and that the actual number subject to this maximum can be decided by the Bank".
- (b) That the amount of daily deposit that he collect from any one depositor will be a fixed sum not being less than Re. 1/- and not more than Rs. 50/-.

Even the Bank was having control over Shri V. S. Joshi, in respect of manner of work. And this fact show the term No. 2(c) and (d) that there were restrictions put on the said Joshi, that he shall not withdraw the deposits on behalf of the depositors and he shall not collect the deposits in advance and he shall be required to collect the daily deposits. The further term in agreement at 2(c) is about mode of payment to Shri V. S. Joshi. Even Shri V. S. Joshi's work was controlled by term No. 2(e) of the agreement and the bank prevailed over him and called upon him to personally collect the deposits by going daily to the residence or place of work and collect the deposits, and said collection was to deposit daily with the bank before the closing of the business hours. Even the agreement has further made provisions that Mr. Joshi shall require to maintain, even the control over Shri V. S. Joshi was to extent that he was called upon to record deposits, and its receipts, and to record the receipts in a register maintained for such purpose at the branch of the bank. By term No. 6 the bank has further restrained Mr. V. S. Joshi while working in the capacity as authorised representative for the bank he will not engage himself in a similar capacity for any other bank. This shows that by this condition Mr. Joshi became part and parcel of the business of the bank. The term No. 7 of the agreement has provided for termination of agreement and action to punish by way of termination or suspension of agreement in case Mr. Joshi is found to have infringed the terms of agreement. Merely because termination of agreement, is used in the said agreement it is nonetheless than effect of termination of services. I may point out that, there are many terms for denial of employment which is covered under the expression "Retrenchment/dismissal or discharge etc. The Karnataka High Court, in the case of;

Kollam Jilla Hotel and Shop Workers Union

AND

Industrial Tribunal, 1998 (FLR) 78-Page 14 has observed as follows :—

"Denial of Employment :—Can be by different Methods—Dismissal of an employee is one method of denial of employment :—Denial of employment of the workers by management can be by different, methods. It can be by dismissal, discharge, superannuation, illegally disallowing the employee to attend the company, by removal of name from the roll etc. Dismissal of an employee is one me-

thod of denial of employment. If it is found that worker is dismissed what is to be considered is whether denial of employment by way of dismissal is correct or not. Therefore, it cannot be stated that the employees were dismissed and therefore, there is no denial of employment."

The said case law has been cited only with the purpose that even termination of agreement would certainly cover in the expression "denial of employment."

Considering all these aspects and facts admitted by the parties, there are ingredients in order to say that Mr. V. S. Joshi was the servant of the bank, and he did not hold any position by virtues of the terms of agreement that he was an independent contractor. In case of independent contractor he is only bound to give agreed results to the principal and he is not bound to obey the orders of the principal in execution of giving of the requisite results. He is also not subjected to the employers, or principal, the manner of executing the work. All these essentials for an independent contractor are absent and therefore Mr. V. S. Joshi cannot be an independent contractor. Similarly it cannot be accepted that, only because in the agreement authorised representative word is used while assigning him work; or in arguments it is pointed out the position of V. S. Joshi, as agent he holds such a position.

18. In order to ascertain the position whether the incumbent hold position that of principal and agent mere designation would not be decisive to hold him agent. What would be material is that the powers vested in him. I have already gone through the meaning assigned to the expression agent and representative by law Lexicon, and according to that, agent is substitute of the principal whereas the representative represents to the principal. In case of Mr. V. S. Joshi, no such position is hold by him according to the terms of agreement. He cannot represent to the principal in many respects such as :

- (i) He is not free to collect any deposits; than the number of persons allowed and the principal is only person who can consider the number of persons from whom he can collect the deposits.
- (ii) Mr. V. S. Joshi was not free to adopt any procedure for collection of amounts from Tiny depositors and the mode of collection was to be done in the manner prescribed by the principal by going home to home and shops to shops.
- (iii) He was not free to keep collected deposits with him and he was required to remit the collection with the principal.
- (iv) He was subjected keep inform to the principal about non-collection of deposits in the exigency and circumstances arose before him.
- (v) His transactions were subject to confirmation by the principal.

If all these lack of power vested in the principal would have been conferred on the employer then alone the person substituted could be said that he is acting as an agent of the principal. If all these powers are excluded from the powers invested in the person he remains no more as agent of the principal and he will acquire status only as a workman engaged or appointed by principal. For all the above reasons Mr. V. S. Joshi cannot be equated with that of 'agent' of the Principal. Since he is satisfying all the tests of 'workman' I hold that Mr. V. S. Joshi is a 'workman' and he has certainly the right to invoke the provisions of Industrial Disputes Act, 1947; Issue No. 2 is answered accordingly.

19. Issue No. 1 :—I have already discussed the rights and powers invested in Mr. V. S. Joshi. It is true that, in case of appointment of V. S. Joshi no procedure of recruitment was followed to make him as regular employee of the bank. However, he holds position in the organisation as a workman and he would entitled to all the benefits created under the law which would be admissible to a workman. However it cannot be accepted that he has acquired the status of employee of the bank as it's regular employee. Hence I answer the issue No. 1 accordingly.

20. Issue No. 3 :—While answering issue No. 2, I have already discussed on this issue also. At the cost of repetition I would like to mention that, employment or non-employment of any workman becomes an individual Industrial Dispute. The mode of non-employment would if not excluded from the definition of retrenchment in S. 2(oo); then it shall be a 'retrenchment' because "The termination for whatsoever reason" amounts to retrenchment is a settled position of law; if the termination is not on account of :

- (a) Voluntary retirement
- (b) Retirement at the age of superannuation
- (bb) Non-renewal of contract of employment
- (c) Continued ill-health of the workman.

In the case in hand termination of his employment was not falling in any of the above stated category. Moreso, denial of employment and various modes adopted does not take out the action of the employer from the main part of the definition of retrenchment. Their Lordships of Kerala High Court has high lighted and supplied observations on the effect of non-employment and consideration to be taken by Courts in the case viz., Kollam Jilla Hotel and Shops:

Workers Union

AND

Industrial Tribunal

1998 C.L.R. (78) 14 (Ker. H. C.)

It is observed, "Denial of employment of the workers by the Management can be by different Methods. It can be by dismissal, discharge, superannuation, illegally disallowing the employee to attend the company, by removal of name from the roll etc. Dismissal of an employee is one method of denial of employment. If it

is found that worker is dismissed what is to be considered is whether denial of employment by way of dismissal is correct or not. Therefore, it cannot be stated that the employees were dismissed and therefore, there is no denial of employment."

Thus the matter of denial of employment squarely falls for consideration and to see its propriety and legality. In case of V. S. Joshi admittedly he was working with the first party from 6-8-1981; and was continuously working during the period of 3 years as mentioned in the agreement and further he was continued in job till 20-10-95 on which date said Joshi was informed that they decided to discontinue the operation of the scheme w.e.f. 1-12-95. The discontinuing of scheme does not amount to closure of the activity for ever, and therefore it does not amount to closure of unit or even closure of activity. There was no payment of retrenchment compensation as contemplated U/s. 25-F of the Industrial Disputes Act, 1947 and therefore for non-compliance of Section 25-F of the I.D. Act, the action is illegal and void ab-initio. The letter of termination dated 20-10-95; does not disclose any penal interest accrued in the mind of the first party but when Shri Murty argued that, the scheme on the first instance was discontinued because it did not remain viable for the bank to continue anymore the scheme as the collection was reduced. And secondly that, the incumbent Shri V. S. Joshi found to have infringed the various terms of agreement, as pointed out by him from the evidence of the witness V. S. Joshi. In any way Shri Pujari has rebutted all the above said allegations. He pointed out the unchallenged evidence on record that, "From the year 1991 the flow of daily deposits was reduced and it is only because the bank Manager were not co-operating to me in the implementation of the scheme adversely they used to canvass amongst in the customers that they are going to close the scheme. Even in order to bring frustration in the customers, restraints were brought on the customers, by delaying payments etc." The reason furnished by the bank that the scheme was not viable was thus found a farce. The bank did not come forward to prove this stand by adducing its evidence; adversely it has passed a pursis desiring to adduce no evidence. The bank has failed to justify its stand before the Court. Shri Murty has also tried to make a fishing enquiry on the basis of certain overwhelming admissions given by Shri V. S. Joshi. He on the basis of those admissions pointed out that, it was the breach of the terms of agreement and therefore the agreement was terminated. Behind back of his such arguments he tried to show that the conduct of V. S. Joshi was amounting to misconduct in terms of agreement and therefore they were justified in terminating V. S. Joshi by terminatine agreement. If at all these were the intentions behind back of discontinuing the agreement and it was penal in nature. Now it is a well settled law that no man could be punished unheard. Hence even the action is illegal and unjustified for non-compliance of the principles of natural justice. From every angle the action of the first party on fact found to be illegal and unjustified. Hence I hold that termination was illegal and unjustified. Issue No. 3 is answered accordingly.

21. Issue No. 4 :—Issue No. 4 needs to be looked; in the light of the observations made while deciding the
2754 GI/99—11.

issue no. 2. I have already hold that issue no. 2 in affirmative holding Shri V. S. Joshi to be 'workman' with further observation that he is amenable to the provisions of Industrial Disputes Act, 1947. In the light of above observation issue deserves to be answered in negative.

22. Since to regulate the service conditions of the workman the Parliament has framed the codified law like Industrial Employment (standing orders) Act, 1946, Industrial Disputes Act, 1947 to settle their dispute and since the supreme Court and other Courts have already taken the view that, appointment letter authorising employer to terminate by giving notice simply, is void contract U/s. 23 and it is against public policy and interest and justice. It does suit in the month of the first party that by virtue of agreement dated 6-8-1991 they got prerogative to terminate the employment of the workman.

In the case. V. Sadasivan & 36 Ors.

Vs.

Binny Ltd., Madras and others

1998 I.C.L.R.-1186 (Mad. H. C.)

Termination of service :—Clause 8 in service agreement entitles the management to terminate the service of the employee by merely giving a months notice—services of petitioners terminated in exercise of that power. petitioners claim the said clause to be void as violative of S-23 of the Indian Contract Act;

Held :—This issue does not involve any factual investigation or appreciation of evidence and adjudication factual issues and as such it is held following the decision of the Supreme Court; viz;

- (i) Central Inland Water Transport Corpn. Ltd.
1986 II C.L.R. 322 (S. C.).

AND

- (ii) O. F. Bhandari Vs. Indian Tourism 1986
II-C.L.R.—449 (S. C.).

AND

- (iii) Delhi Transport Corporation case-1991-I-
C.L.R. 152 (S.C.).

that clause 8 of the service agreement to be void and unenforceable against the petitioners as being violative of S. 23 of the Indian Contract Act, and consequently termination orders are illegal and non-est. Having such a position as stand on today it cannot be accepted that, since the agreement dated 6-8-81 provides right of termination of service agreement, therefore their action to terminate V. S. Joshi by letter dated 20-10-95 is a prerogative of the management and their action is just and legal. If at all the prerogative was created it was based on a contract void under the law. and it does not give any legitimate right to first party to act in their fancies and whim and caprice; ignoring the law as on stand today. Hence issue No. 5 is answered in negative.

23. Issue No. 6 :—The case of first party cannot governed by section 2(aa)(bb). It is not that, the

scheme work was over and therefore it was discontinued. As has pointed out by Shri Pujari that, there was a case decided by Tribunal holding the daily deposit collectors to be 'workman' and Andhra Pradesh High Court confirmed this view the first out of apprehension has created circumstances by itself to show that the scheme did not remain viable to be run by it. However, from arguments advanced on behalf of first party it was penal action. Though agreement is referred, to be a base for effecting termination it is not that the termination was effected in terms of original contract, so that the first party employer could be allowed to say that, their action invites section pursuant to Section 2(oo)(bb) of the Industrial Disputes Act, 1947. This is because their Lordships of Supreme Court in the case of—

Upton Indian Ltd. Vs. Shammi Bhan and Anr.
1998-I.C.L.R. 1043 (S. C.).

in para 32 has observed as follows :—

"The contract of employment referred to in the earlier part of clause (bb) has to be the same as is referred to in the latter part. This is clear by the use of words "Such contract" in the earlier part of this clause. What the clause, therefore, means is that there should have been a contract of employment for a fixed term between the employer and the workman containing a stipulation that the services could be terminated even before the expiry of the period of contract. If such contract, on the expiry of its original period, is not renewed and the services are terminated as a consequence of that period, it would not amount to "Retrenchment". Similarly, if the services are terminated even before the expiry of the period of contract but in pursuance of a stipulation contained in that contract that the services could be so terminated; then in that case also, the termination would not amount to "Retrenchment". In the case of Shri V. S. Joshi the agreement referred is dated 6-8-1981 and it initially stipulated period of 3 years. That means expiry of stipulated period would reach on 5-8-84. Whereas termination letter dated 20-10-95 refers this agreement for the base of terminating of contract of service in view of agreement dated 6-8-1981, of which neither renewal was made nor fresh appointment was issued and Mr. Joshi was allowed to work. Such contracts after 5-8-84 did not remain in 1995 to be acted upon by first party employer to claim attraction of S. 2(oo)(bb) of the Industrial Disputes Act, 1947. Hence the first party badly failed to prove the said issue. Hence the same is answered in negative.

24. Issue No. 7 —It is only found that the action of the first party was found to be illegal and unjustified one. The second party has moved for the relief and called upon this Court to hold that:

- (i) The said termination letter dated 20-10-95 issued to Mr. V. S. Joshi be called upon to withdrawn by first party.
- (ii) Mr. Joshi be allowed to work as an authorised representative bank under the said scheme in normal and usual manner.
- (iii) Mr. Joshi be taken on regular staff as permanent employee i.e. clerk of Sakhar Peth w.e.f. 20-10-95.
- (iv) Any other order in the interest of the justice be passed.

If any termination is found to be illegal, the normal relief of setting aside of the alleged illegal termination follows with relief of reinstatement with back wages and continuity in service. In the present case, the order of reference has called upon this Court to determine and decide as to whether termination dated 22-4-96 is justified or otherwise and if, not what relief to which the 'workman' is entitled? Having found the termination illegal effected in view of letter dated 20-10-95; from the date mentioned in the order of reference i.e. 22-4-96; the relief asked by second party at serial No. 1 as above is possible. Even the relief at serial No. 2 is also possible, however, this Court cannot create any new right in favour of the workman except declaring that he is workman and shall entitled to every benefits to workman available and admissible to him under the law by which his service conditions could be regulated. He, however cannot be declared to be a clerk working with Sakhar Peth Branch of the first party and if any such relief is granted it would amount granting relief without jurisdiction. Hence answering the reference in affirmative I proceed to pass the following award.

AWARD

- (i) The reference is answered in affirmative.
- (ii) It is hereby held and declared that, the first party has illegally terminated to Shri V. S. Joshi pursuant to their letter dated 20-12-95 and from 22-4-96 as mentioned in order of reference. The said action of the first party was and is unjustified.
- (iii) The first party employer is hereby directed that, the action taken pursuant to their letter dated 20-12-95 is hereby set-aside and quashed.
- (iv) The first party employer is further directed to continue to employ to Shri V. S. Joshi treating that he was never terminated from the job which he was undertaking before his so called termination.
- (v) The first party employer is hereby directed that confer upon Shri V. S. Joshi, all admissible benefits available to the workman of the category of doing clerical work in the organisation flows from the law, rule, regulations applicable to the organisation.
- (vi) Costs to be the costs in the cause.
- (vii) The award be sent to the appropriate Government for its publication i.e. the Central

Government and also copy of it to following authorities.

- (i) Government of India/Bharat Sarkar Ministry of Labour/Shram Mantralaya, Shram Shakti Bhawan, Rafi Marg, New Delhi-1.
- (ii) The Ministry/Department of M/Of Finance (Banking Dvn.) New Delhi.
- (iii) The Regional Labour Commissioner (C), Mumbai.
- (iv) The Assistant Labour Commissioner (C), Pune. Their file No. 7(12)/96.
- (v) Adjudication Folder.

S. N. KAMBLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 1999

कां०अ० 2812.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-09-99 को प्राप्त हुआ था।

[सं० एल-12011/37/96-आई आर (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 10th September, 1999

S.O. 2812.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workman, which was received by the Central Government on 08-09-1999.

[No. L-12011/37/96-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT: BANGALORE

DATED: 13-8-1999

PRESENT:

JUSTICE R. RAMAKRISHNA
PRESIDING OFFICER.

C. R. No. 267/97

I PARTY

The General Secretary
Andhra Bank Employees Union
Parvana Bhawan,
Opp. Reddy Hostel,
HYDERABAD-500 001.

II PARTY

The Asstt. General Manager
Andhra Bank, J. C. Road,
Bangalore-2

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12011/37/96/IR (B-II) dated 11-9-97 on the following schedule:

SCHEDULE

"Whether the action of the management of Andhra Bank in engaging services of couriers in respect of clearing work at Bangalore is legal and justified? If not, to what relief the concerned workmen are entitled?"

2. This reference is of the year 1997. The tribunal received this reference on 29-9-1997. The notices are issued by ordinary post. The first party not appeared. Second party appeared through learned advocate.

3. A notice under RPAD was issued to the first party. The first party by mistake filed a claim statement in C. R. No. 185/97 thinking that he is filing the statement in this case. Earlier we have dismissed CR. No. 185/97 for this genuine mistake. Having come to know that the parties involved are in CR. No. 185/97 and not in CR No. 267/97.

4. Thereafter we have issued a notice to the first party which was duly served. The first party not appeared nor filed his claim statement.

5. In view of the fact that the first party is expected to file the claim statement within 15 days from the receipt of the reference by the Government of India or 15 days after a notice duly served to him. Since he has failed to do so we cannot adjudicate this matter on merits.

ORDER

The reference is rejected.

JUSTICE R. RAMAKRISHNA, Presiding Officer.

नई दिल्ली, 10 सितम्बर, 99

कां०अ० 2813.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल०आई०सी० ऑफ इंडिया के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-09-99 को प्राप्त हुआ था।

[सं० एल-17012/27/91-आई आर (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 10th September, 1999

S.O. 2813.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 08-09-99.

[No. L-17012/27/91-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT: BANGALORE

DATED: 24-8-1999

PRESENT:

JUSTICE R. RAMAKRISHNA,
PRESIDING OFFICER.

C.R. No. 72/91

I PARTY

D. S. Rangaraddiyavar,
Age major, Occupation
recently nil, residing
at Gurlakatte, P.O.,
Kankikoppa,
Naigund Taluka,
District Dharwad

II PARTY

Life Insurance Corporation
Of India by Senior
Divisional Manager,
Post Box No. 16,
Dharwad-580 001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub section 2A of the section 10 of the Industrial disputes Act, 1947 has referred this dispute vide order No. L-17012/27/91-JRB.II dated 28-10-1991 on the following schedule :

SCHEDULE

"Whether the management of Life Insurance Corporation of India is justified in removing Shri D. S. Rangaraddiyavar from service with effect from 21-10-1986? If not to what relief the workman is entitled?"

2. The first party was appointed as a Development Officer on probation from 16-10-74. He was absorbed on 13-12-1976.

3. The second party having discovered that the first party committed breach of Regulations 21 and 24 read with Regulation 39 of Life Insurance Corporation of India (Staff) Regulations, 1960 have issued an article of charge dated 7-5-84.

4. In brief the charge was that the first party procured the proposal for insurance of one lakh on the life of late Vasudev Rangappa Jangal, on the basis of which a policy was issued in the month of March 1982. It is further alleged that this proposal was made with full knowledge that the insured was uninsurable as he was suffering from Neurological problems since childhood as diagnosed by the doctors who treated him earlier and who gave opinion that the congestitalocrobral palay was chronic and incurable. Though the insured had no property in his name it was shown by the first party that he had income of his own. The medical examination of the proposed insured was conducted by two doctors whose limit was Rs. 25,000/- even though the services of another doctor whose limit was Rs. 50,000/- was available the same was not utilised. The insured died on 13-7-82. In these circumstances the articles of charge was issued and a domestic enquiry was conducted by an enquiry officer appointed by the second party.

5. The first party in his claim statement denied the charges as baseless and attached the validity of domestic enquiry. The major portion of the pleadings are against the validity of domestic enquiry.

6. This Tribunal after framing a preliminary issue has allowed the second party and the first party to place their evidence on this issue. After recording their evidence this issue was closely examined and finding was given in favour of the management.

7. The facts narrated above are undisputed. The Tribunal has to find whether while proposing an insurance to a person who is uninsurable, the first party has committed a misconduct deliberately or is guilty of any omissions.

8. Shri M. L. Vishwashwara, the learned advocate for the Corporation has submitted reserving his right, to place materials with the action of the first party was deliberate, at present, he confined to the fact that the first party is definitely guilty of omissions which attracts Regulations 21, 24 and 29 where an integrity, honesty and devotion to the corporation is one of the parameters a Development Officer should follow. The learned advocate has submitted the enquiry Officer examined as many as 15 witnesses and got marked 36 documents for the corporation and also allowed the first party to examine 5 witnesses with nil documents to the defence. The enquiry Officer has exhaustively discussed both oral and documentary evidence in his detailed report and gave a finding that the CSE was aware that the insurer was suffering from ailments and he was an owner in the joint family property and had no independent income. The EO also gave finding that the CSE with mala fide intention arranged for the medical examination from the doctors whose limits are restricted to 25,000/- and he has also given false reports in all the aspects of the matter.

9. The next contention of the learned advocate is that since this tribunal gave a finding on the validity of domestic enquiry in favour of the Corporation it is for the first party to show any perversity in the findings or victimisation and unfair labour practice.

10. As against this submission the learned advocate for the first party Shri KVS submitted that there was no intention for this workman to commit the acts shown in the charge sheet as it was only an accidental which he has not foreseen when a proposal was made of the insured.

11. I am not able to subscribe to the submissions of the learned advocate for the first party. The matter was dealt in detail and it is prima facie proved beyond all reasonable doubts in proving all omissions of the misconduct & the omission is substantially proved.

12. The learned advocate for the second party placed his reliance—

(1) A. V. Nachane's case AIR 1982 SC 1126.

(2) Sudhir Vishnu Pauvalkar AIR 1971 SC 2251.

(3) A recent judgement in the state of Rajasthan V/s Saxena AIR 1998 SC 1150.

13. The first citation deals with the power of the corporation for amendment of rules and the statutory recognition to the regulations. In the second citation a non interference to a simplicitor termination and the delay in making reference. The 3rd citation relates to the interference of the tribunals to a major penalty imposed by the management to convert it into minor penalty.

14. Having regard to these facts and circumstances the action of the corporation in removing the first party from service w.e.f. 21-10-86 does not call for interference. Secondly the latches committed by the first party in referring this dispute after lapse of 5 years without there being any explanation also goes in favour of the corporation. In the result I make the following order.

ORDER

The reference is rejected.

JUSTICE R. RAMAKRISHNA, Presiding Officer.

नई दिल्ली, 6 सितम्बर, 1999

का.आ. 2814 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक नोट प्रेस, देवास के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-99 को प्राप्त हुआ था।

[सं. एल-16012/1/87-डी-II (बी)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 6th September, 1999

S.O. 2814.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank Note Press, Dewas and their workman, which was received by the Central Government on the 6th September, 1999.

[No. L-16012/1/87-D.II(B)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT, JABALPUR (MP)
PRESIDING OFFICER, SHRI D. N. DIXIT

CASE NO. CGIT/LC/R/39/88

Shri Jagdish Prasad Azad,
S/o Puralal,
C/o B.D. Tiwari,
96/196, Roshan Bajaj,
Ganeshganj, Lucknow.

Applicant.

Versus

General Manager,
Bank Note Press,
Dewas (MP)

Non-Applicant.

AWARD

Delivered on this 24th day of March 1999

1. The Government of India, Ministry of Labour vide order No. L-16012/1/87-D.II(B) dated 21st March, 1988 has referred the following dispute for adjudication by this tribunal—

"Whether the action of the management of Bank Note Press, Dewas in terminating Shri Jagdish Prasad Azad Senior operator from service with effect from 18-8-85 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. The case of the workman Jagdish Prasad Azad is that he was appointed by management on 18-10-82. He was promoted as senior operator on 4-8-84. On 18-10-85, he was terminated from the services before termination enquiry was not held. He was not given notice of termination and retrenchment compensation. The termination of the workman is ab-initio void. There was no agreement of service between the employer and the employee. Providing for any specific limit of employment. The workman has been removed from service on the alleged charge of cancelling his date of birth. For this an enquiry was necessary so that workman was given opportunity to present his case. This opportunity was not given to the workman. The workman has completed period of probation and has earned a promotion. Without enquiry, the services of the workman could not have been terminated. Workman wants that he be deemed to be in service and the order of termination be quashed. He further wants wages and allowances from 18-10-85 till date.

3. The contention of the management is that before appointment the workman was asked to fill attestation form. This consist of warning that if the facts given in the form are false, his service would be liable to be terminated. In this attestation form, the workman has declared his date of birth as 1-7-57 and his age on the date of filling the form was 24 years 11 months and 19 days. Prior to the appointment, the workman was given an offer of appointment. This clearly stated that the services of the workman are temporary and his services are liable to be terminated by giving him one month notice. It was also indicated that in case one month notice is not given, the workman will be paid salary for one month. The probation of the workman was not terminated though he was given promotion on adhoc basis as Sr. operators stop gap arrangement. The CBI reported to the management that the date of birth, as recorded in the school certificate produced by the workman is forged. The Secretary, Higher Secondary Parishad informed by his letter dated 7-8-85 that the date of birth of applicant is 1-7-52. This letter also informed the management that the date of birth 1-7-57 as shown in the certificate produced by the workman was forged. Thus the workman has indulged into forgery and has also furnished false information in the attestation form. This a workman has done with mala fide intention to remain in service for 5 more years. The management found the workman as a person of doubtful integrity. Such a person cannot be kept in a security management like Bank Note Press. The workman was appointed as a temporary basis and was on probation hence his services were terminated under rule 5 of temporary service rules 1965 in

accordance with his terms of appointment with the management. The workman was paid one months salary in lieu of notice period. He was also paid encashment of leave period, the termination of workman was terminated simplicitor. The management wants that its action be approved and case of workman be dismissed with cost.

4. The workman produced original High School certificate 1972 which is Ex-M.5. This shows that the date of birth of the workman is 1-7-57. This fact is admitted by the workman. The management has written to Secretary, Board of Secondary Education, UP Allahabad and their reply is Annexure IV dated 7-8-85 which is Ex. M-14. According to this reply, the date of birth of the workman is 1-7-52. It has been repeated that the date of birth of workman is not 1-7-57. It further contains that the workman has forged his date of birth as 1-7-57. The Board of Secondary Education has requested the management to take legal action against the workman in this respect.

5. The workman denied the contention of Annexure IV. Ex. M 14 No evidence has been led by the workman to contradict this letter. This letter has been written by an institution which has conducted the High School examination 1972 and issued certificate Ex. M-5. They were best persons to tell what date of birth they have written in Ex. M-5. Their version that the date of birth was 1-7-52 cannot be taken in a light manner. The burden was on the workman to disprove this contention by Board of Secondary Education, UP is false or suspicious. Nothing has been done by the workman.

6. A bare scrutiny of original High School Certificate 1972, Ex-M-5 shows that there is a correction in the word Sattavan and numeral 57. Thus the contention of the management is accepted that the real date of birth of the workman was 1-7-52 and alteration has been made in the original High School Certificate Ex. M-5 in order to gain 5 years period in the service.

7. Before issue of appointment order, the workman filled up attestation form Ex. M-2 on 9-6-82. In this form, the workman has given his date of birth as 1-7-57 in his own handwriting. This attestation form contained a warning that "If the fact that false information has been furnished or that there has been suppression of any factual information in the attestation form comes to notice at any time during the service of a person, his services would be liable to be terminated". Thus deliberately the workman gave his date of birth as 1-7-57 which was false to his own knowledge. The workman made himself liable for termination by giving false information to the management in the attestation form Ex. M-2.

8. The workman was given appointment order Ex-M.5 on 13-10-82. In this order also at no. 12 it is mentioned that if the employee gives a false information or misleads the management then he will be liable to be terminated from service. Thus repeatedly the workman has been told that giving false information will lead to termination from service. In spite of these repeated warnings, the workman dared to give wrong date of birth to the management. This he did knowingly and consciously as such as per terms of appointment, he is liable to be terminated on this ground alone.

9. According to management, termination of workman is not a retrenchment but a termination simplicitor in terms of contract of service. The probation of the workman was never terminated at any stage. He was promoted on ad hoc basis on a stop gap arrangement to the post of Sr. Operator. This fact did not terminated his probation period. He was never confirmed in the post of original appointment. The workman has been paid salary of one month in lieu of notice period at the time of termination. This was in the light of agreement between the parties.

10. According to workman his services could not have been terminated without retrenchment compensation. Thus his termination is bad under Sec. 25-F of the Industrial Disputes Act.

11. Under Service a temporary employee has no right to hold the post of his services are liable to be terminated in accordance with the relevant service rules and the terms of contract of service. The workman being a temporary servant

had no right to hold the post and the competent authority terminated his services by innocuous order of termination without costing any stigma on him. The termination order does not indict the workman for any misconduct. There was no element of punitive proceedings as no charges have been framed, no enquiry officer was appointed, no findings were recorded instead an enquiry was held on the report of the CBI and competent authority terminated the workman services by an innocuous order in accordance with the terms and conditions of his service. The Competent Authority has not taken any steps to punish the workman instead it exercise its power to terminate the workman services in accordance with the contract of service and the rules. I am supporting is my contention by Honourable Supreme Court in the case of State of UP and another versus Kaushal Kishore Shukla reported in 1991(2)-VI-ALC India services law Journal-page-96.

12. The termination of workman was under the terms of appointment and it was terminated simpliciter. It was not a retrenchment. The workman thus is not entitled to any relief claimed by him. The award is given in favour of the management. Parties to bear their own cost.

13. Copies of award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 6 सितम्बर, 1999

का. आ. 2815.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व्हिकल फैक्ट्री, जबलपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-99 को प्राप्त हुआ था।

[सं. एल-14012/4/94-आर्ड. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 6th September, 1999

S.O. 2815.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Vehicle Factory, Jabalpur and their workman, which was received by the Central Government on 6-9-99.

[No. L-14012/4/94-IR(DU)]

KULDIP RAJ VERMA, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Presiding Officer—Shri D. N. DIXIT.

CASE NO. CGIT/LC/R/143/95

Sumer aged about 55 years,
S/o Bhaiyalal Burman, Ex-Sheet.
Metal Worker, Vehicle Factory,
Jabalpur.

Applicant

Versus

Union of India through
General Manager,
Vehicle Factory,
Jabalpur.

Non Applicant

AWARD

Delivered on this 24th day of March, 1999

1. The Government of India, Ministry of Labour vide order No. L-14012/4/94-IRDU dated 4-8-95 has referred the following dispute for adjudication by this tribunal—

घनसूचि

“क्या प्रबंधक व्हिकल फैक्ट्री, जबलपुर (म.प्र.) के प्रबंधक द्वारा श्री सुमेर, एक्स-मेटल एंड साइट वर्कर 'सा' ग्रेड की सेवाओं आदेश दिनांकित 13-01-85 द्वारा समाप्त किये जाने की कार्यवाही न्यायोचित है? यदि नहीं तो संबंधित कर्मकार किस अनुत्पाद का हकदार है?”

2. The management remained absent on 24-11-97 and has not filed their written statement, they were given the opportunity to file W.S. on 28-1-98, 18-3-98 and 5-5-98. At last on 5-5-98, the management was proceeded exparte. Thus in the present case, the management has choosen not to contest the case. The applicants are representatives of diseased Sumer who died on 28-10-95. Prior to his death, the diseased Sumer has filed his statement of claim. Sumer was appointed by the management on 5-11-62. On 7-6-93, he was served a charge sheet alleging that he was playing Satta and idling away the time while on duty. He submitted his reply. The departmental enquiry was held. The witnesses of the management were not cross examined and no opportunity was given to the workman to cross examine them. The workman was not given opportunity lead defence evidence. Copy of the enquiry proceedings and enquiry report was not supplied to the workman. The order of dismissal was passed on 13-1-85. The workman filed an appeal. This appeal was decided on 23-2-86. According to applicants the dismissal of Sumer was illegal and contrary to law. They claimed that he be treated in service and wages and allowances be paid to him from date of termination i.e. 12-1-85 till date of his death i.e. 18-10-95.

3. The management has not filed the DE papers. In the absence of the DE papers, it is difficult to rebut the affidavit of Hirabai W/o workman Sumer. I believe Smt. Hirabai's statement on affidavit and hold that termination of Sumer from service from 13-1-85 is bad and he is entitled to wages and allowances from this date till date of his death i.e. 25-9-85.

4. The award is given in favour of the applicants. Management do pay the wages and allowances of Sumer to applicants from 13-1-85 to 25-9-85 in 3 months time from the date of publication of award. If this is not done, the management do pay the applicants interest on this amount at the rate of Rs. 12 per annum. Parties to bear their own cost.

5. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 10 सितम्बर, 1999

का. आ. 2816.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तमिल नाडु एण्ड केरल सब एरिया औद्योगिक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-99 को प्राप्त हुआ था।

[सं. एल-14012/22/97-आर्ड. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th September, 1999

S.O. 2816.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Chennai as shown in the Annexure, in the industrial dispute

between the employers in relation to the management of Tamil Nadu and Kerala Sub-Area Canteen and their workman, which was received by the Central Government on 10-9-99.

Ex. W5/20-8-97—Reference issued by the Ministry of Labour Court, Government of India.

For Management : None.

[No. 1-14012/22/97-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU,
CHENNAI

Wednesday, the 21st day of July, 1999

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal,
Industrial Dispute No. 80/1997

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the management of Tamil Nadu and Kerala Sub-Area Canteen, Vellore.)

BETWEEN

Shri T. M. Jayavelu,
74/1, Aru-Salavanpalayam, Big Street,
Thottapalayam, P.O. Vellore-632004, NAA District,
Tamil Nadu.

AND

The Manager, Tamil Nadu and Kerala Sub-Area Canteen,
North Arcot Branch, Jawana Market, Vellore-632001.

REFERENCE :

Order No. L-14012/22/97-IR(DU) dated 20-8-97, Ministry of Labour, Government of India New Delhi.

This dispute coming on this day for final disposal in the presence of Thiru V. Prakash, advocate appearing for the Workman, upon perusing the reference, claim statement and all other material papers on record and the management being absent and set exparte, this Tribunal passed the following :

AWARD

This reference has been made for adjudication of the following issues :

"Whether the action of the management of Tamil Nadu and Kerala Sub-Area Canteen, North Arcot Branch, Jawana Market, Vellore-1 (Tamil Nadu) in terminating the services of Shri T. M. Jayavelu is legal and justified? If not, to what relief the workman is entitled for?"

WW1 present and examined. Exs. W1 to W5 marked. Claim proved. Award passed directing the respondent to reinstate the petitioner in service with back wages, continuity of service and other attendant benefits. No costs.

Dated, this the 21st day of July, 1999.

S. ASHOK KUMAR, Industrial Tribunal
WITNESSES EXAMINED

For Workman :

WW1 : Thiru T. M. Jayavelu.

For Respondent/Management : None.

DOCUMENTS MARKED

For Workman :

Ex. W1/19-6-82—Appointment of Staff for Vellore Canteen issued to the petitioner.

Ex. W2—23-8-84—Order of Termination of Service issued to the petitioner.

Ex. W3/3-9-84—Counter notice issued on behalf of the petitioner.

Ex. W4/11-4-88—Order passed by the Hon'ble High Court in W.P. No. 13324/98.

नई दिल्ली, 10 सितम्बर, 1999

का. अ. 2817.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत्त में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेन्ट आफ पोस्ट आफिस के प्रबन्धन के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-99 को प्राप्त हुआ था।

[सं. एल-40012/85/98-आई. आर. (डी य)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th September, 1999

S.O. 2817.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sr. Supdt. of Post Offices and their workman, which was received by the Central Government on 10-9-99.

[No. L-40012/85/98-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated 6-8-99

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

CR. No. 13/39

I PARTY

Shri Amarnath Gurusiddappa,
Hallad,
Ex. Branch Post Master, P.O.,
Honnutagi-586127,
Bijapur.

II PARTY

The Sr. Superintendent
of Post Offices,
Postal Department,
Bijapur Division,
Bijapur-586104.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-40012/85/98/IR(DU) dated 4-2-99 on the following schedule :

SCHEDULE

"Whether the action of the management of Senior Superintendent of Post Offices, Bijapur Division, Bijapur in terminating the services of Sri Amarnath Gurusiddappa Hallad is legal and justified? If not, to what relief the workman is entitled?"

2. Consequent to this reference notices are issued to both parties. The second party after receipt of the notice represented through a Government advocate. The first party though received the notice does not appeared and filed the

claim statement as contemplated under Rule 10(B). Since the case can be proceeded only on the basis of claim statement, we cannot make a proper adjudication on merits.

ORDER

The reference is rejected.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 10 सितम्बर, 1999

का. आ. 2818. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-99 को प्राप्त हुआ था।

[सं. एल-40012/207/95-आई. आर. (डी०यू०)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th September, 1999

S.O. 2818.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 10-9-99.

[No. L-40012/207/95-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU,
CHENNAI

Tuesday, the 27th day of July, 1999

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal,
Industrial Dispute No. 49 of 1997

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workman and the Management of Department of Telecommunication, Tanjore.)

BETWEEN

Shri S. Sakthivel, 31-L, North Street,
Tiruvarur, P.O. (TK).

AND

The General Manager, Department of Telecommunications,
Thanjavur-613001.

REFERENCE :

Order No. L-40012/207/95-IR(DU), dated, 23-7-97
Ministry of Labour, Government of India, New
Delhi.

This dispute coming on this day for final disposal in the presence of Thiru R. Karunakaran, Addl. Standing Counsel appearing for the Management, upon perusing the reference and other connected papers on record and the workman being absent, this Tribunal passed the following :

AWARD

This reference has been made for adjudication of the following Issue :

"Whether the action of the General Manager, Department of Telecommunications, Thanjavur in terminating the services of Shri S. Sakthivel, Casual Labour w.e.f. 21-11-92 is proper, legal and justified? If not, to what relief the workman is entitled?"

Publication effected. Petitioner called absent. Dismissed for default.

Dated, this the 27th day of July, 1999.

S. ASHOK KUMAR, Industrial Tribunal

नई दिल्ली, 10 सितम्बर, 1999

का. आ. 2819. — औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरदर्शन मटेनेन्स सेन्टर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पोर्ट ब्लेयर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-99 को प्राप्त हुआ था।

[सं. एल-42011/1/98-आई. आर. (डी०यू०)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th September 1999

S.O. 2819.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the industrial Tribunal, Port Blair as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Door-darshan Maintenance Centre and their workman which was received by the Central Government on the 10-9-99.

[No. L-42011/1/98-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL ANDAMAN
AND NICOBAR ISLANDS PORT BLAIR

PRESENT :

Shri K.P. Dutta, Presiding Officer,
Labour Court, Port Blair

I.D. (I.T) Case No. 3 of 1998

1. Shri A. Dhanmanth Rao

2. Shri Shaji Kumar

3. Shri T. Selvaraj

4. Shri P.S.P. Rao

5. Shri Biju Daniel

6. Shri V.T. Royce

.. First Party

versus

The Management of Door-darshan Maintenance
Centre, Port Blair .. Second Party

Friday the 9th day of April, 1999

AWARD

1. The scheduled reference in terms of clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made by the Central Government, Government of India, Ministry of Labour vide Order No. L-42011/1/98 IR (DU) dated 20-7-1998 is for adjudication of the following dispute:—

Whether the action of the management of Doordarshan Maintenance Centre, Port Blair in refusing employment to S/Sh. A. Dhanmanth Rao, Shaji Kumar, T. Selvaraj, P.S.P. Rao, Biju Daniel & V.T. Royce is legal & justified? If not, to what relief, the workmen are entitled?

2. The above six workers were engaged by the second party on contract basis for varying periods as below:—

Sl. No. & Name	Date of appointment	Date of Termination
1. A. Dhanmanth Rao	13-5-94	June, 1997
2. Shaji Kumar	25-2-1994	May, 1997
3. C. Selva Raj	12-1-1994	Nov., 1995
4. V.T. Royce	6-4-1994	June, 1997
5. Biju Daniel	28-8-1995	June, 1997
6. P.S.P. Rao	26-3-1993	Nov. 1996

3. They were appointed on monthly payment of Rs. 1200/- as per order No. DMC/PB/(B)/95-A/1082 dated 25-3-1995.

4. They were not paid travelling expenses for joining different posting in different islands. They were not given also leave on Sundays and holidays, but to work on Sundays and holidays. They were skilled workers but minimum wages were not paid.

5. Shri Dhanmanth Rao is Xth passed and qualified in ITI (Mech. Radio & TV), Shri Shaji Kumar is XIIth passed and has done ITI (Mech. Radio & TV), Shri C. Selvaraj is Xth passed and qualified in ITI (Mech. Radio & TV), and the other three workers are also similarly qualified. They were given training for 10 days before engagement. They were appointed after interview and full verification regarding their qualification.

6. After their termination, new workers were engaged. The first party workmen continued for more than three years. No notice was served before termination. They approached Conciliation Officer, but the proceeding ended in failure.

7. At the time of filling up certain regular vacancies, these first party workmen, though qualified for the same, were not at all considered.

8. The Second party, i.e. the Station Engineer, Doordarshan Maintenance Centre, Bargat Line, Junglighat vehemently reacted to the different contentions made out in the statement of demand of the first party on different grounds as hereinbelow:—

- (i) They were engaged purely on contract basis on a fixed monthly payment as Caretaker of VLPT (Very Low Power Transmitters) with specific mention that nothing will confer upon them any right to appointment on regular basis in future;
- (ii) there was no sanctioned post of Caretaker of VLPT at that time on regular basis;
- (iii) VLPTs were intalled in ten remote islands in Andaman & Nicobar Islands for telecasting Doordarshan programmes;
- (iv) those VLPTs do not require regular operators;
- (v) only a caretaker is required to ensure the operation and also to keep vigilance over installation;
- (vi) regular appointment was therefore, not required;
- (vii) the six first party workmen as named put up the following working days as given hereinbelow:—

- (a) A. Dhanmanth Rao: 17-5-94 to 29-9-94, 3-1-95 to 6-4-95, 23-4-95 to 10-10-95, 5-4-96 to 10-6-96, 19-12-96 to 17-4-97 and 1-5-97 to 12-6-97.
- (b) V.T. Royce 14-4-94 to 26-6-94, 30-9-94 to 2-1-95, 7-4-95 to 11-9-95, 14-4-96 to 17-11-96 and 1-3-97 to 8-6-97.
- (c) Biju Daniel 28-9-95 to 13-4-96, 17-6-96 to 31-8-96, 14-9-96 to 31-5-97.
- (d) Shaji Kumar 1-3-94 to 2-7-94, 2-10-94 to 11-12-94, 5-1-95 to 5-4-95, 23-4-95 to 22-9-95, 11-10-95 to 8-11-95, 25-1-96 to 27-2-96, 1-3-96 to 9-9-96.
- (e) P.S.P. Rao 9-1-94 to 11-6-94, 27-6-94 to 1-10-94, 4-11-94 to 14-2-95, 5-6-95 to 17-10-95, 9-11-95 to 17-3-96, 11-6-96 to 5-8-96, 4-11-96 to 12-6-97.

- (f) C. Selvaraj 1-2-94 to 16-5-94,
12-6-94 to 30-9-04,
4-11-94 to 30-11-94,
1-3-95 to 27-7-95,
1-8-95 to 31-8-95,
4-9-95 to 31-10-95.

- (viii) the workmen falsely stated that their services were terminated by the second party; but actually they abandoned their employment as Caretaker;
- (ix) they were not posted to different islands as stated. The question of payment of TA/DA was not admissible;
- (x) all the six persons were engaged on contract basis on monthly payment of Rs. 1200/-. The contract staff are not entitled to any Sundays or holidays;
- (xi) per day rate of payment in case of monthly amount of Rs. 1200/- was Rs. 40/- and as such higher than minimum wages. Subsequently the said amount was enhanced to Rs. 1500/- per month. Per day rate was thus Rs. 50/- i.e. higher than the minimum wages. The allegation about non payment of minimum wages is baseless;
- (xii) Caretakers were not at all skilled workers. They were not engaged in any operational work of VLPT, but they were engaged for safety of the instrument and also for keeping watch over them;
- (xiii) there is no prescribed qualification for Caretaker, but there is approved rules for appointment of technicians;
- (xiv) those six persons actually demanded higher payment. The second party could not accede to such demand. As such they abandoned;
- (xv) there is no regular post of Caretaker for VLPT;
- (xvi) the instant case is not covered by Industrial Disputes act.

9. The point for consideration is whether the action of the management of Doordarshan Maintenance Centre, Port Blair in terminating the services of six persons as named above is legal and justified.

Decision with reasons

10. It transpires from the evidence of P.W.1 A. Dhanmanth Rao that he and 5 others viz. V.T. Royce, Biju Daniel, Shaji Kumar, Surya Prakash and C. Selva Raj were engaged on different dates and their services were also terminated on different dates (vide cross). Different work orders (Exts. 1 to 5) were also issued showing engagement of 6 persons

months in case of Dhanmant Rao or till thereafter on 21-12-1994, similar period in case of Dhanmanth Rao in the next spell on 21-3-1995 (Exts. 2 and 1); and more or less similar period for others going to show that they were engaged from time to time. The contention of the first party that those six persons were engaged on different dates is found to be an admitted fact. P.W.1 asserted that he completed more than 240 days during his service period for three years with, however, breaks. This statement has not been challenged in his cross-examination.

11. P.W.2 Selvaraj was engaged as Caretaker on 12-1-1994 (chief). This is not challenged in cross. His service was terminated on 31-10-1995 (cross). There is nothing to show in cross-examination that he worked for a period less than 240 days.

12. The matters relating to training or qualification or payment of any TA/DA and the like are not relevant in the context for the reason that in the periphery the crucial point is whether their services as Caretaker was terminated without notice and whether they put in services for a period more than 240 days and whether Sundays and Holidays were to be treated within the period of their service. As a matter of fact there is prescribed qualification for the post of Caretaker which could not be mingled with the post of Technician which is entirely a separate cadre. For the post of technician such Caretaker may or may not appear in the interview test. But the point for consideration is whether the post of Caretaker and that of Technician is one and the same? Clearly it is not as it verily appears from the trend of examination and cross-examination of the witnesses as well as from the exhibited documents. Besides, the post of Technicians are filled up by holding a competitive examination from the candidates. But this is not required to be done in the case of filling up the post of Caretaker. The first party workmen have mingled both two things in the same drive. Obviously, concentration is to be fixed to the crucial question whether their termination as Caretakers has been justified or not. It clearly shows that no notice was served on either of them before such termination. Had there been any, the service copy of any such notice would have been produced by the second party. Furthermore, the calculated period of rendition of service as Caretaker by each of them does not include Sundays and holidays (as given out in the written objection). Monthly contract basis engagement is also a daily rated engagement, but as the payment is made at a time on monthly basis, this looks like otherwise. Actually it is also a daily rated payment case particularly because of the fact as it is given out in the written objection paras 5 and 6. The daily rate was Rs. 40/- in the case of monthly payment of Rs. 1200/-

and the daily rate was Rs. 50/- in the case of monthly payment of Rs. 1500/-. The fact, therefore, remains that they were virtually engaged on daily-rated basis and they continued for more than 240 days in a year. As such, their termination ought to have been considered according to the prescribed rules and also section 25-F of I.D. Act, requiring one month's notice in writing showing therein reasons for retrenchment and other conditions set down in clause (b) and (c) of section 25-F.

10. Next it appears that six new persons were engaged after their termination (chief of P.W.1). This has not been controverted in his cross-examination. Thus section 25-H of the said Act i.e. re-employment of retrenched workmen has not been considered in the instant case.

11. In the absence of categorical evidence from the side of the second party with reference to any notice of termination, it cannot be, automatically presumed that they abandoned their job or relinquished their employment as asserted in the W.O., but it has to be concluded that their services were terminated for any reason whatsoever, though not reflected in the form of any notice as required under section 25-F of I.D. Act. This question cannot also be mingled with the another aspect relating to appointment of technician which is completely a separate matter further more, in the reference there is nothing in relation to Technician, but only in relation to refusal of giving them their employment. The action is, clearly illegal and unjustified on the part of the management of Doordarshan Maintenance Centre.

12. By the by, the definition of "Industry" under section 2(j) of the Industrial Disputes Act,

"industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature),

and that of "industrial establishment" or undertaking as defined under section 2(ka) of the act,

"industrial establishment or undertaking" means an establishment or undertaking in which any industry is carried on ;

Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries....",

and the definition of "workman" as defined under section 2(s) of that Act,

"workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward whether the terms of employment be express or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 or the Army Act, 1950 or the Navy Act, 1957; or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature",

would go to clearly show that those six persons engaged as Care Takers would definitely come under the purview of section 2(s)(iv) as because their wages did not exceed Rs. 1600/-. When they become workmen the establishment must be obviously an industrial establishment or undertaking, as otherwise the dispute under section 10(1)(d) and (2)(a) of section 10 of the I.D. Act would not have been referred to this Tribunal. Industrial Disputes Act, therefore, verily applies for the obvious reasons. The contention of the second party as set out in the W.O. is not clearly tenable.

13. In the circumstances the impugned action on the part of the management of Doordarshan Maintenance Centre as referred to becomes clearly illegal and unjustified.

Hence,

Awarded

that the action of the management of Doordarshan Maintenance Centre, Port Blair in refusing employment to S/Shri A. Dhanmanth Rao, Shaji Kumar, T. Selvaraj, P.S.P. Rao, Biju Daniel and V.T. Royce is clearly illegal and unjustified. All the six first party workmen are entitled to be reinstated to their original post with all back wages and consequential service benefits in accordance with rules.

This Award shall become enforceable on the expiry of ten days from the date of its publication

In the official Gazette of Andaman and Nicobar Islands.

Let this Award be forwarded to the Lt. Governor, Andaman and Nicobar Islands for this information and due publication in the official Gazette in terms of Section 17 of the Industrial Disputes Act, 1947.

Given under my hand and seal of the Tribunal this the 9th day of April, 1999.

Typed at my dictation & corrected by me.

K. P. DUTTA, Presiding Officer

नई दिल्ली, 10 सितम्बर, 1999

का. घा. 2820.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय लोक निर्माण विभाग, कलकत्ता के प्रबन्धन के संलग्न निम्नलिखित और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद के केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के प्रावधानों के अन्तर्गत कार्य है, जो केन्द्रीय सरकार को 10-9-99 को प्राप्त हुआ था।

[सं. पत्र-42011/39/93-आई. एम. (डी. य.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th September, 1999

S.O. 2820.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of C.P.W.D., Calcutta and their workman, which was received by the Central Government on the 10-9-99.

[No. L-42011/39/93-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 2 of 1994.

PARTIES :

Employers in relation to the management of CPWD, Calcutta

AND

Their workmen

PRESENT :

Mr. Justice A.K. Chakravarty, Presiding Officer

APPEARANCE :

On behalf of Management Mr. Prabir Kr. Chakraborty, Advocate with Mr. G.R. Chattonadhvay, Engineer Assistant.

On behalf of Workmen

Mr. Madhusudan Dutta, Advocate and Vice-President of the Union.

State : West Bengal

Industry : Public Works

AWARD

By Order No. L-42011/39/93-IR(DU) dated 13-12-93 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of CPWD, Calcutta in not regularisation the services of 40 employees engaged through different contractor is justified? If not, what relief the said workmen are entitled to?"

Particulars of 40 employees under reference is given below:

Sl. No.	Name of the workman	Designation
1	2	3
1.	Shri Manik Kr. Saha	Watch & Ward.
2.	Shri Manik Ch. Saha	-do-
3.	Shri Pradip Kr. Ghosh	-do-
4.	Shri Biswanath Das	-do-
5.	Shri Ranu Durlab	-do-
6.	Shri Archana Patra	Typist
7.	Shri Goutam Bose	Watch & Ward
8.	Shri Ganga Charan Das	-do-
9.	Shri Biman Saha	-do-
10.	Shri Biswanath Pramanick	-do-
11.	Shri Arun Chowdhury	-do-
12.	Shri Nema Ch. Patra	-do-
13.	Shri Nirmal Biswas	-do-
14.	Shri Bachu Gayan	-do-
15.	Shri Arabinda Mondal	-do-
16.	Shri Tapan Kumar Banerjee	-do-
17.	Shri Swapan Kumar Biswas	-do-
18.	Shri Harasit Kumar Bala	-do-
19.	Shri Mathura Ghosh	-do-
20.	Shri Santosh Kr. Mondal	-do-
21.	Shri Sanatan Kr. Sarkar	-do-
22.	Shri Tarak Mazumdar	-do-
23.	Shri Bhadrassar Biswas	-do-
24.	Shri Profulla Kumar Bala	-do-
25.	Shri Gobinda Das	-do-
26.	Shri Gonopati Biswas	-do-
27.	Shri Chandan Kundu	-do-
28.	Shri Chandan Chakraborty	Peon
29.	Shri Ananda Kundu	Watch & Ward
30.	Shri Sunil Kr. Roy	-do-
31.	Shri Kani Mondal	-do-
32.	Shri Sudhir Mondal	-do-

1	2	3
33. Shri Narayan Sarkar		Watch & Ward
34. Shri Rathan Sarkar		-do-
35. Shri Mohan Biswas		-do-
36. Shri Santi Sarkar		-do-
37. Shri Jakir Hosen Mondal		-do-
38. Shri Madhudhan Das		-do-
39. Shri Bipul Majumdar		-do-
40. Shri Biswanath Halder		-do-

2. Instant reference has arisen at the instance of the Central P.W.D. Mazdoor Union (in short, the union) for regularisation of the services of above 40 employees engaged through different contractors in C.P.W.D., Calcutta (in short, the management).

3. Union's case, in short, is that the concerned 40 workmen were engaged in the border roads and fencing works as Watch & Ward and Peon through contractors and that their engagement and the jobs in which they were engaged were perennial and continuous in nature. There was a ban on employment for which the Superintendent Engineering had no other alternative but to employ Driver/Chowkidar/Office Attendants through different contractors for the jobs which were of perennial nature. Union alleges that there was no ban as Chowkidars were being appointed. It is further alleged that there was discussions between the union and the management in the matter of regularisation of the concerned workmen and the Chief Engineer of the I.B.B. Zone could not deny the justification of regularisation of the concerned workmen. Union further alleges that there are number of vacancies in the post of Chowkidar and Peon, but the management is employing them from outside without considering the question of regularisation of the concerned workmen whose names have already been sent to the concerned authority. The union accordingly prayed for regularisation of the concerned workmen in their services who have completed 240 days of service and implementation of the principle of equal pay for equal work for these workers.

4. The management of CPWD filed a written statement, alleging, inter alia, that the concerned workmen having been engaged through different agencies there is no scope for their regularisation in the service of the management. It is alleged that due to ban on muster roll for employment of workers, such as Office Assistant, Driver, Watch & Ward Staff when the project for construction of road along India-Bangladesh border in West Bengal Sector had started, the CPWD Working Division had to engage workers through private agencies on contract basis. It is further

alleged that it was expected that such system of engagement through private agencies will be gradually eliminated by taking sanctions for engagement of these types of workers from the competent authority and thereafter finalising recruitment procedure by the Superintending Engineer (Coordination), EZ, CPWD, Calcutta or by other concerned officers. Since the question of direct appointment was taking time due to procedural formalities the concerned union started putting pressure upon the CPWD officers for regularising the services of those workers engaged through private agencies as if they are departmental workers. The union wanted that they should be absorbed in the department without going through the Employment Exchange procedure and relating the upper age limit. The management could not consider their demands as they were not casual workers. The union, however, in the mean time raised the industrial dispute. The ALC(C) informed that the workers engaged could not be treated as workers engaged in muster roll by CPWD. The management has further alleged that the concerned workmen were appointed for the specific purpose of construction of the roads, bridges and fencing along the border in West Bengal Sector till their services are replaced by appointment of regular staffs and that as per D.G.(W)'s order and C.A.T.'s verdict the workers do not have locus standi for their regularisation in the department. Regarding the two workers engaged on hand receipt at Balurghat, one of them is likely to be absorbed as M.L. Driver and regarding the other, his case has already been sent to the Superintending Engineer (Coordination) for taking appropriate steps for his regularisation. Management has further alleged that it had not appointed workers through muster roll or hand receipt or otherwise directly on work orders in which the payments to the workers are directly made to them. The concerned workmen are paid through their own agencies. CPWD has accordingly prayed for rejection of the case of the union.

5. The union subsequently filed an amended written statement, alleging, inter alia, that the concerned workmen were engaged through different agencies to work under Krishnanagar Central Division, CPWD Krishnanagar and Barasat Central Division, CPWD Barasat and they had been working from 3 to 8 years continuously and that on 18-8-1993 Director of Administration CPWD, New Delhi directed all Engineers to supply a list of daily rated muster roll workers engaged on hand receipt or work order or in any other way completing 240 days of service in two consecutive years. It is alleged that the concerned workmen are

not being paid equal pay at par with regular Chowkidar/peons.

6. The union examined three witnesses and produced certain documents. The management of CPWD neither produced any document nor examined any witness.

7. Heard Mr. Dutta appearing for the union and Mr. Chakraborty appearing for the management.

8. There is no dispute in this case that the concerned workmen were engaged to perform the duties of Chowkidars and Peons in the project for construction of road along Indo-Bangladesh border in West Bengal Sector. It is also an admitted position that these concerned workmen were engaged through different agencies/contractors. Though it is not specifically admitted by the management in its written statement, still then, since it is alleged that the services of the workmen are to be replaced by appointment of regular staff, the perennial nature of the work of the concerned workmen was indirectly admitted.

9. The management having stoutly denied the existence of master and servant relationship between them and the concerned workmen it is necessary to consider in the context of the nature of the engagement of the concerned workmen whether they can be said to have been appointed by the C.P.W.D. I have already stated that the admitted position is that the concerned workmen were appointed through different contractors. Unless a case is made out by the union that such contract labour has either been abolished under the relevant provisions of the Contract Labour (Regulation and Abolition) Act, 1970 or that the contract for appointment was merely a sham transaction and it was nothing but a smoke screen to conceal the real relationship of master and servant between the parties, no question of consideration of the union's case in the said manner can arise. As a matter of fact, in the entire written statement as well as in the amended portion of the written statement of the union not a single word was stated about abolition of the contract labour or about the sham contract. It is also to be noted that there is neither any documentary nor any oral evidence on this point. Of the three witnesses examined by the union, WW-1 is Sanatan Kr. Sarkar who is one of the concerned workmen. He stated in his evidence that they get their wages every month through contractors, but such disbursement is made in presence of the Junior Engineer. It further appears from his evidence that inspite of changing of contractors concerned workmen including him always worked under new contractor. WW-2 Santosh Kumar Mondal made absolutely contradictory statements regarding the nature of his engagement under the management but subsequently admitted himself as contractor's labour. He for the first time tried

to introduce a new case by saying that "all these workmen in the schedule, particularly those in item Nos. 1 to 20, whom I personally know, were given work directly by the CPWD, but shown to be contractor's labour." Apart from the fact that the union never made out any case of direct appointment showing the concerned workmen as contract labour, he contradicted his own statement by saying in his cross examination that he has been continuously working under the contractor Ashit Ghosh. He also said Ashit Ghosh issues instructions as to what he is to do as per the works order issued by the Assistant Engineer and he receives his wages from Ashit Ghosh. WW-3, Ranjit Kumar Sen is the Regional Secretary of the CPWD Mazdoor Union. He also did not say anything about the alleged shamness of the contract. He, however, stated that there are number of vacancies existing in the establishment.

10. The main thrust in the submission of Mr. Dutta, learned Advocate/representative of the union is that the concerned workmen are not contract labourers and that because of shamness of such contract there was employer-employee relationship between the management and the concerned workmen. I have already stated that neither any such case was made out in the union's written statement, nor any satisfactory evidence was adduced to prove the same. The union's case that the contract for appointment of labour was a sham transaction accordingly cannot be considered, let alone proving of the same, in such circumstances. Mr. Dutta referred to number of decisions starting from the case of *Fussainbhai, Calicut v. Alath Factory Thozhilali Union, Calicut & Ors.*, reported in 1978(II) LLJ 397 to the latest case of the Hon'ble Supreme Court in the case of *Secretary, Haryana State Electricity Board v. Suresh & Ors.* reported in 1999(I)LLJ 1086 and submitted that because of the change of contractors of the concerned workmen during their continuous work for 7/8 years that the concerned workmen should be considered as direct employees of the management. There may be change of contractors frequently but that does not by itself, gives rise to any presumption that the contract labour is fake or false or sham. Nor does continuous work under any contractor by any workman for a long length of time gives any right to be absorbed/regularised in the service of the management. None of the decisions cited by Mr. Dutta has any application to the facts and circumstances of the present case. Even apart from that, I am afraid, Mr. Dutta cannot be permitted to agitate that engagement of contract labour as a sham transaction because it is a settled position of law that the Tribunal is to consider and dispose of the reference upon the respective case of the parties as made out before it and cannot

fly at a tangent to frame a third case, not made out by the parties. The admitted case of the parties, in the instant case, being that the concerned workmen were engaged through private agencies/contractors and the schedule of the reference also showing the same, the union cannot make out this case at the time of argument.

11. It is immaterial, in the aforesaid circumstances, to consider whether there is existing vacancy in the establishment of the management. The concerned workmen having admittedly been doing the jobs of perennial nature, they may approach the appropriate authority for taking steps in accordance with the provisions of the Contract Labour (Regulation & Abolition) Act, 1970 for abolition of contract labour, if they so desire.

12. So, upon consideration of the facts, circumstances, evidence on record as well as position of law in this matter, I am not in a position to grant any relief to the concerned workmen as the union has hopelessly failed to prove its case that there is any relationship of employer—employee between the management and the concerned workmen. No question or regularisation of services of the contractors workmen accordingly can arise. Management of the C.P.W.D., Calcutta, therefore, was justified in not regularising the services of the concerned workmen.

13. The reference is disposed of accordingly by this Award.

A. K. CHAKRAVARTY, Presiding Officer
Dated, Calcutta,
The 1st. September, 1999.

नई दिल्ली, 10 सितम्बर, 1999

का. आ. 2821.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टर, बी. सी. जी. वैक्सार्डिन लैब-रोटरी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-99 को प्राप्त हुआ था।

[सं. एल-42012/79/97-आई. आर. (डी.यू.)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th September, 1999

S.O. 2821.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Director, B.C.G. Vaccine Laboratory and their workman which was received by the Central Government on the 10th September, 1999.

[No. L-42012/79/97-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU CHENNAI

Thursday, the 29th day of July, 1999

Present :

THIRU S. ASHOK KUMAR, M.Sc. B.L.

Industrial Tribunal

INDUSTRIAL DISPUTE NO. 31 OF 1998

(In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workman and the management of Director, B.C.G. Vaccine Laboratory Guindy, Chennai-600 032)

Between

Sri S. Pandian, No. 46, 1st Street,
Nethaji Nagar, Tondiarpet, Chennai-81.

And

The Director, B.C.G. Vaccine Laboratory, Guindy,
Chennai-600 032.

REFERENCE:

Order No. L-42012/79/97-IR(DU) dated 23-1-98.

Ministry of Labour, Govt. of India, New Delhi.

This dispute coming on this day for final disposal in the presence of Smt. C. K. Vishnu priya, Addl. Central Government Standing Counsel appearing for the Management, upon perusing the reference, and other connected papers on record and the workman being absent, this Tribunal passed the following

AWARD

This reference has been made for adjudication of the following issue:

"Whether the action of the Director, B.C.G. Vaccine Laboratory, Guindy, Chennai in imposing penalty of compulsorily retirement against Sri S. Pandian the Laboratory Asst. w.e.f. 22-12-94 is justified? If not to what relief is he entitled to?"

Paper publication effected. Petitioner called absent Dismissed for default.

Dated, this the 29th day of July, 1999.

S. ASHOK KUMAR, Industrial Tribunal.

नई दिल्ली, 7 सितम्बर, 1999

का. आ. 2822.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में भारत गोल्ड माइन्स लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में, निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलूर के पंचाट को प्रकाशित करती जो केन्द्रीय सरकार को 7-9-99 को प्राप्त हुआ था।

[सं. एल-43012/11/90-आई. आर. (विधि)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 7th September, 1999

S.O. 2822.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workman, which was received by the Central Government on 7th September, 1999.

[No. L-43012/11/90-IR (Misc.)]
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, 24th August, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 22/91

I PARTY :

Shri P. K. Vasudevan, Clerk,
Champion Reef Mine Stores,
108/2, Married Quarters,
Champion Reef,
KOLAR GOLD FIELDS-563120.

II PARTY

The Managing Director,
Bharat Gold Mines Limited,
Oorgaum,
KOLAR GOLD FIELDS-563120.

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-Section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-43012/11/90-JR (Misc.) dated 23rd April, 1991 for adjudication on the following schedule.

SCHEDULE

"Whether the management of B.G.M.L., K.G.F. is justified in dismissing Shri P. K. Vasudevan, Stores Clerk from service with effect from 26th November, 1979. If not, what relief Shri Vasudevan is entitled to?"

2. The concerned workman P. K. Vasudevan died on 3rd March, 1997. his Legal Representatives are brought on record.

3. The deceased joined the services of this Company in the year 1952 as a Stores Clerk. At the time of dismissal he was working in C. R. Mines Store. When he was working as a Clerk in the Bullen's Stores of C. R. Mines some Physical Verification was made and it was found shortage of the articles from the store. Consequent to this shortage the II party issued a Showcause notice. This notice was issued on 20th March, 1979 as per Ex. M-1. The contents of the Notice is :

"Showcause: Why action should not be taken against you for dishonestly in connection with the employers property in that you while functioning as in-charge of Bullen's Stores during the period 3rd September, 1974 to 7th December, 1978, misappropriated the following items of materials and thereby caused wrongful loss to the undertaking to the tune of Rs. 91,595. The shortage was :

Item No. 1—Boots Hunter	— 273 Pairs
Item No. 2—Boots Miners	— 2,224 Pairs
Item No. 3—Helmets	208 Nos."

4. The above constituted the misconduct under standing order 14(1)(II)(d).

5. The Domestic Enquiry was conducted through MW 1, the Personnel Manager. In the Domestic Enquiry, the management examined necessary witnesses and got marked all relevant documents.

6. The Enquiry Officer on the assessment of the evidence came to the conclusion that the charges levelled against the deceased was proved. The report is at Ex. M-15. Since the Disciplinary Authority found that the proved misconduct was very grave, the deceased was dismissed from service w.e.f. 26-11-1979.

7. The deceased in the claim Statement has not taken any specific defence except to say that he was working as a Clerk at the relevant point of time and during his absence on three occasions the stock verification was made and in absence it was found the alleged shortage which was not correct.

8. The II party in their counter statement have contended the deceased workman has misappropriated by indulging in removing the property belonging to the company when he was incharge of the same of a Stores Clerk and therefore the Management obliged to conduct the Domestic Enquiry where the allegation of charge was substantially proved.

9. This Tribunal has framed a preliminary issue to give a finding on the validity of Domestic Enquiry. In this regard the Enquiry Officer was examined as MW 1 and the workman was examined as WW 1. By appreciating the materials this court gave a finding that the II party conducted Domestic Enquiry in accordance with law. Consequent to this finding the parties are directed to submit their arguments.

10. Admittedly this workman was a Stores Clerk at the relevant point of time. An Inventory by the Officers, the above shortage was found. During that inventory this workman used to take leave. The stock was maintained and it has been checked and infact it was computerised later. The Enquiry Officer Prima Facie accepted the evidence and came to the conclusion that the deceased is responsible for the misconduct alleged against him.

11. The I party is not able to show that the findings of the Enquiry Officer is perverse or he has been victimised by the management by practising unfair Labour Practice. In the absence of this materials this Tribunal cannot sit as an Appellate Court to reappraise the evidence and the resultant conclusion arrived in the Domestic Enquiry. The Order of dismissal is absolutely not a matter to be considered as shockingly disproportionate.

12. This workman was dismissed from service in the year 1979, he has approached this Tribunal only in the year 1991. Though it is said he has filed a suit in the Civil Court in KGF in the year 1980 and which came to be decided during 1990, and the same can be taken as a matter when this workman agitating his right in a wrong forum. the question of laches cannot be cured.

13. However the materials on records is sufficient to prove that the deceased was found having misappropriated and he has also failed to give charge of the stock which was in his position.

14. Having regard to these facts and circumstances the following order is made.

ORDER

15. The II party are justified in dismissing the services of this workman from 26-11-1979. The reference is answered accordingly.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 सितम्बर, 1999

का. आ. 2823.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडिया सीमेन्ट लि. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार भ्रम/न्यायालय औद्योगिक अधिकरण, बैंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-9-99 को प्राप्त हुआ था।

[सं. एल-29011/13/89-आई. ऑर. (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 7th September, 1999

S.O. 2823.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of India Cement Ltd., and their workman, which was received by the Central Government on 7-9-99.

[No. L-29011/13/89-IR(Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 30-8-99

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 83/92

I PARTY

The General Secretary,
India Cements Employees
Union,
Sankari West Post Office,
Salem Dist.
Pin : 637303.

II PARTY

1. The management of
M/s. India Cements Ltd,
Sankari West P.O.,
Salem Dist.
Pin : 637303.
Represented by its
Gen. Manager.
2. Sri R. M. Chidambaram,
Contractor,
Mekkadu,
Sankari West Post,
Sankari-637303
Salem Dist.
3. Sri J. Munesh
Contractor,
SSM Mines,
G. Vediapatti,
Rakampatti Post,
Trichy Dist.
Pin 639102.
4. Sri K. Vadivelu,
Contractor,
No. 11, B Pandithar
Street,
Gandhi Chowk,
Udumalai Pettai Post
Pin : 642126,
Coimbatore.

AWARD

1. The Central Government by exercising the powers conferred by clause. (d) of sub-section (1) 2754 GI/99—13.

and sub section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-29011/13/89-IR(Misc) dated 28-10-92 on the following schedule :—

SCHEDULE

"Whether the management of India Cements Ltd. and the Contractors were justified in terminating the services of 48 contract labourers as at annexure 1. If not to what relief the concerned workmen are entitled to?"

2. This reference is received on 3-11-92. The first party filed the claim statement on 21-7-93. Second party filed their counter statement on 6-7-94.

3. Initially the first party filed an application under Section 11 of the Industrial Disputes Act read with order No. 1, Rule 10 of the code of Civil procedure to implead 3 contractors as supplemental members of the second party. After issuing notice to these contractors they have been impleaded after these contractors made a written representation that they have no objection to be impleaded.

4. The case of 48 workmen, espoused by the General Secretary India Cements Employees Union, shortly called ICEU. It is contended in the claim statement that M/s. India Cement Ltd, shortly called ICL, owns limestone Mines and Cement factories in Sankari west, in Salem Dist. Thaliyuth near Tirunelveli in Tamil Nadu and Sibnkur in Cuddapph Dist. of Andhrapradesh. The production in the cement factory in Sankari started from 1-1-1964. At that time 2257 workers had been employed by the company through various contractors including 2, 3 and 4th members of the second party, hereinafter referred as impleading contractors.

5. It is further contended that company had no regular workmen therefore, the unions demanded absorption of the contract labour as permanent employees. The company agreed to do so in a phased manner by entering into settlements/agreements with trade unions including ICEU (1st party). The company absorbed 161 contract workers on 16-4-1965 on permanent basis. In this manner the company absorbed 300 contract workmen on 1-7-66, 400 workmen in the year 1967; 500 workmen in the year 1969; 500 workmen in the year 1971 and 200 workmen in the year 1973.

6. The remaining contract labourers demanded similar treatment. Thereupon the company absorbed 1756 contract labour employed by one of its contractors namely Star construction and Transport Company, shortly SC&TC, on 1-4-98. Again on 1-2-97 the company absorbed 112 contract labourers working under the contractors of the company. After this, only 64 contract labour were working under other contractors of the company, including impleading contractors. Among them 13 were treated by the company itself as its own Casual Labour and they were not worked under the contractors. Remaining 51 contract labourers were working under the impleading contractors. The demand for absorption of these workmen by the ICEU has not been done for one reason or the other.

7. It is further contended on 4-12-86 without prior notice, the services of 51 contract labourers and 13 casual labourers were terminated by the ICL. Therefore, ICEU demanded their reinstatement. The bilateral discussions failed and therefore the union raised an industrial dispute before ALC, Madras. There was a strike in the factory from 5-1-87 to 17-1-87. Upon direct discussions the matter was settle and the workers resumed work from 19-1-87.

8. On 11-1-88 when these 51 workers reported for work, they were informed by the second party that their services have been terminated and they will have no work in the establishment. They were not issued a prior notice nor followed the pre conditions under Section 25F of the Industrial Disputes Act, shortly Act.

9. Therefore the contention of the I party is that the company engaged the services of these workmen through the impleading contractors and they are not obtained registration under section 7 of the contract Labour (Regulation & Abolition) Act, 1970, shortly CL(R&A) Act, since they are employed after coming into force of the Act and the Central Rules framed thereon. The company as the principal employer and the contractors have not complied with the provisions of the Central Labour Act and there is violation of Section 9 of the Act.

10. The Industrial dispute raised by the I party before ALC, Madras resulted in failure and therefore, this reference is made by the Central Govt.

11. The ICL in their counter statement have denied the contention of the I party in toto except what is stated in their statement. It is contended that the ICL is a company incorporated under the Companies Act, 1913, is running 3 Cement Units. Sankari unit started production from 1-1-64. The company owned its Limestone quarries in Sankari area and the work pertaining to mining of Limestone and transporting the same to the factory was entrusted to a Contractor, namely SC & TC. Through their labourers, earth excavation, drilling, blasting, breaking, loading and transportation of Limestone to crusher were carried out. The SC & TC gave some sub contract of some of work entrusted to them.

12. By mutual consent, a contract for quarrying and transporting of limestone dated 20-8-74 was terminated w.e.f. 1-4-78. By a settlement dated 1-4-78. 1753 permanent workmen on the rolls of SC & TC and 395 workmen on the rolls of its sub-contractors were taken on the permanent rolls of the company. With this SC & TC went out of existence.

13. Pursuant to the Cement Wage Board Award 1983, the workmen represented by the first party raised a dispute and settlement was signed on 23-6-84 departmentalising senior most 28 drivers engaged in the 28 contract tippers for transport of Limestone.

14. Apart from settlement dated 8-6-78 and 23-6-84 no single contract labour was regularised by the ICL.

15. It is further contended, that the contract labourers absorbed as per the settlement 1978 and

1984 were only those who were engaged in direct mining operations like earth removal, drilling, blasting, breaking, loading, transportation and maintenance of vehicle, compressor etc. and also the supervisory and the clerical staff. Apart from the above categories no other contract labourers of SC & TC or its sub-contractors were absorbed by the company.

16. It is further contended, that the workmen involved in this reference were engaged by the impleading contractors who were not a contractor for the company prior to 1982 nor were sub-contractor under SC & TC upto 31-3-78. The ICL absorbed the workmen of SC&ST as they were engaged in direct mining operations. The concerned workman in this dispute were not engaged in the direct mining operations and there was no question of absorbing them.

17. It is further contended that impleading, contractors, the employers of this workman, terminated their service in the year 1988. The said termination has nothing to do with the company, as the company was not at all their employer at any time. There was no master and servant relationship, with the company and these workmen. The company has been registered under the provisions of contract labour (Regulation and Abolition) Act and the Contractors had obtained licences in respect of these three impleading contractors.

18. Some of the legal contention raised by the ICL is, since there was no master and servant relationship, the reference is not sustainable in law. Since the workmen in their claim statement asked for absorption that question does not arise as per the terms of the reference. This tribunal can only see whether their termination is violation of the act and if so what really they are entitled to. The Locus-Standi of the union also questioned.

19. In addition to what it stated above, the second party also made para wise remarks to the claim statement. Their main contention is that the Civil contract work was undertaken with regard to constructional work and forming of roads. Therefore, the impleading contractors were interested to supply the manpower and after the construction activities are over, the contracts were terminated and consequently the workmen also lose their job under the contractors. Therefore, the contention of the second party is that these workmen are not entitled to any relief and there is no violation of Industrial Disputes Act.

20. My predecessor made an order on 6-7-94 directing the parties to lead their evidence on the schedule to the reference as no separate issues are required and if any subsidiary point arises that will be considered along with merits.

21. Accordingly, the ICL examined 2 witness, The I party examined their General Secretary and the evidence was concluded. The relevant documents Ex. M1 to M18 and Ex. W1 to W9 were marked. The learned advocates address their arguments.

22. Now the point that required determination on the basis of the pleadings and the evidence of the parties are:—

- (a) Whether the first party union proved that the workman in question are the direct employees of ICL?
- (b) Whether the ICL proved that the workman in question are the employees engaged by impleading contractors for particular purpose and therefore, they are not legally claim either their termination or absorption?
- (c) Whether there is any violation of contract labour (Regulation & Abolition) Act, 1970?
- (d) What order?

23. Points a and b :—

These two points are taken together for determination to avoid repetition.

24. The concerned workmen are seeking the benefit of Section 25F of the Act on the ground that they are in continuous service from 1982 onwards, working directly under ICL. They have denied the contention of the ICL that they are the contract labourers under impleading contractors who have been entrusted to supply this labour force purely for constructional work, which according to the management that the work of construction was not perennial in nature and it is a time bound programme as after completing the constructional work, there is no scope for continuation of labour force in their company. They have per contra, compared the work of the regular workman who have been absorbed by them by their previous contractor, SC & TC and their sub contractors. The reason given by ICL was that the labourers under SC & TC were working in the mines involving the work of extracting limestone in the mines for that purpose that were doing drilling, blasting etc. which also included the loading and transportation of limestone to crushers.

25. To resolve these questions we have to rely on both oral and documentary evidence.

26. The ICL examined an Assistant Manager, V. Paramashiva as MW1. This witness has stated that on 1-4-78 he joined the ICL who are engaged in the manufacture of Cement. He has also stated the 3 places where they are running their units. His further evidence is, the main raw material for manufacturing Cement is limestone. The ICL extracting the limestone from mines situated near the factory. ICL is having totally 5 mines near the factory.

27. Prior to 1-4-78, the ICL gave contract work to SC & TC for extraction of limestone from the mines. By virtue of a settlement Ex. M.1 from 1-4-78, the ICL took over the management on mining operation from SC & TC and all the labourers working under that company are directed to continue their service in ICL. The terms and conditions are enumerated in this settlement. These absorbed workmen started doing the work for ICL as permanent employees.

28. He has further stated that he know the impleading contractors who are civil contractors. They were

engaged for the purpose of building construction, maintenance and road construction. The civil works used to be entrusted to these contractors accepting their tenders. These contractors used to turn out the Civil Works entrusted to them by engaging their own labourers. He has further stated that the 48 workmen annexed to the schedule were directly working under impleading contractors. These contractors were not entrusted to carry out any mining activities. The work entrusted to them were time bound works.

29. He has further deposed that the civil works entrusted to the impleading contractors was from 1-10-82. The civil work came to an end during 1987 except some road work. In the year 1988 all the roads were completed, the civil work was stopped from 11-1-88. Therefore after this stage the ICL has not engaged any contractors to do any of the work in the company. After 11-1-88 the ICL used to engage their surplus labourers if any civil nature of work was to be done.

30. His further evidence related to the Voluntary Retirement Scheme introduced during the year 1987-88 to enable the surplus staff to take the benefit. The relevant documents are Ex. M2 and Ex. M3. The registration certificates under contract labour Act was marked as Ex. M4.

31. He has further stated that impleading contractors have not obtained any licence under the act since they have engaged less than 20 workmen. Mr. Chindambaram and Munesh have engaged 18 labourers each. He has further spoke about the conciliation, vide letter Ex. M5 dated 28-4-88. Ex. M6 is the amended certificate of registration after intimation to the authority. His further evidence is the impleading contractors were making PF contribution and a separate code number was given. The contribution of the contractors were paid by them. They were submitting monthly and annual income to the P.F. authorities. This witness produced challans and other formalities relating to this contribution and they are marked as Ex. M7. He has further stated the code numbers were allotted to each of the impleading contractors. The company used to pay advances to the contractors, in addition to the payment against the bills of demand. Ex. M8 is marked to demonstrate the advance amount paid to the contractors. The work orders given to contractors also produced and marked as Ex. M9. The impleading contractors were complained the statutory obligations in respect of their workmen. He has also referred to Ex. M11 series which are the annual returns under C.L. (R&A) Act 1972. The wages was directly paid by the impleading contractors to these workmen. To evidence this Ex. M12 series were marked.

32. He has also produced attendance and payment registers maintained by the contractors during the contractual period as per Ex. M.13 series (12 nos). The contractors themselves supervising the works except Munesh who engaged one Madaweswaram.

33. This witness was extensively cross examined by the learned advocate for the first party. In the cross examination this witness admitted that he was working in SC & TC from 1-6-67. He has also admitted that SC & TC was one of the contractor under the second party company, mines. He has also admitted by virtue

of Ex. M1, all the workmen working at that time were absorbed including the workmen working under sub contractors. He has denied the suggestion that impleading contractors were also contractors in ICL sub-contractors. He has denied the suggestion that the impleading contractors have registered only from 30-3-83. He has denied that the ICL were engaging the services of these contractors from 1977 onwards. He has also denied that though these workmen employed from 1-10-82, the company obtained contract registration certificate from 30-3-83 with a view to deprive the benefit to this 48 workmen.

34. He has admitted that as per Ex. W1 the number of persons shown as working under K. Vadivelu was 20 persons and later 19 persons. He has also admitted that Ex. M7 shows the names of 20 workmen and the number of days worked by these workmen is also reflected in Ex. M10. He showed his ignorance that Ex. M9 is only orders entrusted to the impleading contractors. He has denied that these workmen were working in the mines. He has denied that the registers Ex. M13 series were maintained by the ICL.

35. He has further deposed that the Company was maintaining register under form No. 12 for contractors register. He has denied that the company was paying PF contribution to the workmen in question. The inspection of Civil work used to be done by the Engineers of Civil department. He has denied that the allocation of work to the workers involved is from the company personnel. His attention is also brought to the wage register of Vadivelu to show that 20 persons were working during the period 1983. He has denied the suggestions that registers Ex. M7, M9 were maintained by the Company by giving the name of impleading contractors. He has agreed that the wage register Ex. M13 was in hand writing of a single person.

36. The second witness was the Sr. Asst. Manager, Personnel. This witness deposed that he joined ICL on 24-4-1981. He know impleading contractors who are engaged to do the civil works. After the contract work was entrusted they have been informed to fulfill some contractual obligations such as maintaining the register and performing other instructions. The impleading contractors were agreed to maintain. On their request to provide some clerical assistance to maintain the registers, the management permitted one Shri Robin Gilbert Singh who was working in that office. He has further deposed that during 1983-84 the strength of the employees including the workmen under administrative staff was about 1500.

37. In the cross examination of this witness he has admitted that in Ex. M 13 series, some registers were written by Shri Singh. This witness was not able to say the exact date of the contractors approaching the management for assistance. He has denied Mr. Singh was writing all these registers in ICL office during working hours.

38. As against the evidence of the management, the General Secretary of the union was examined as MW1. This witness deposed that as a General Secretary he has filed the claim statement. He was working in this company from 1964 and retired on 30-6-93. He was a General Foreman at the time of retirement.

39. It is his further evidence that the concerned workmen in this dispute in addition to civil works, were also doing chips collection, surface mining, limestone breaking, blasting etc. Their works used to be supervised by the mining engineers and others. It is his further evidence that these workmen are working since 1977. He has produced 3 settlements Ex. M.I dated 8-6-78, Ex. W3 another settlement dated 23-6-84 one more settlement Ex. W4 dated 22-9-84 also produced and marked. According to him the union asked the management to absorb these workmen but same has not been done. On 11-1-98 work was stopped to these workmen without issuing any notice or any benefits under the act. Thereafter he raised a dispute before the ALC, Madras. The conciliation was failed. The impleading contractors made communication to the Desk Officer, Ministry of Labour as per Ex. W6 to Ex. W8. He has contended that the termination dated 1-1-88 was illegal and the workman are entitled for reinstatement, continuity of service and back wages.

40. This witness was cross examined extensively by the learned advocate for the ICL. This witness accepted that earlier, SC & TC are the contractors to do the mining operations and from 1-4-78 the ICL taken the mining activity directly from them. Thereafter they seems to be contractors of ICL. He has also accepted that the ICL entered to this settlement with the first party union agreeing to take all contract labourers working under SC&TC. He has also accepted that he was working under SC & TC upto 31-3-78. He has further stated that he know the impleading contractors. He said that in addition to civil contract they are given the works which are in perennial nature. He has denied that the workmen in question have successfully engaged by the impleading contractors. He has accepted that all the appointments made after 1-4-78 by the company issued with appointment orders in work in the mines. He has admitted that the appointment orders was not issued to the workmen in this dispute. Though he said he asked the management to regularise their service, he has no document to substantiate. Though he has shown his ignorance about the contractors certifying the payments made to these workmen, he mentioned that through the contractors the management was making payments. He has omitted that the management were directly carrying out the mining activities through direct employees by making several departments. He has also admitted that chip collection, limestone breaking etc. are production work. The work load was also fixed in these departments. The management introduced payment of incentive scheme to their workmen. He has admitted that he is a signatory to the settlement Ex. M1. He has denied that there was no surface mining work after 1978.

41. It is his further evidence that he is aware of an arbitration award Ex. M.15. He has also admitted that the wages of the workmen in production oriented work should be paid the wages prescribed in Ex. M.15. He says that he do not remember that the contract labourers were not allowed to work in the production side as per Ex. M.15. He has admitted that in the mining side the contract labourers are not allowed to work. He has also

admitted the wages paid to the workmen in the productivity line was more than the wages paid to contract labourers. Though he has stated that the union made a demand to the management to pay the wages to the contract labourers in par with the mining workers, the same was not paid. He states that he has not produced any proof. He has shown his ignorance that the existence of a department called Civil Engineering in the mines and also he says that he is not remembering that one Murgan was giving instructions to the contractors as it relates to the civil work. However, he said the said Murgan was taking measurements of the civil work and give report to the management.

42. He denied the suggestion that these workmen were engaged from 1982 and kept maintained that they are working from 1977 onwards. He has admitted regularisation of the workmen in packing and printing section who were working on contract basis. He has admitted that the impleading contractors have doing any work in this company after 11-1-88. He has also accepted the introduction of Voluntary Retirement Scheme. He has also accepted that once the government refused to make a reference and later a reference is made.

43. On the assessment of the evidence it is conclusive that the workmen in question engaged to work in the year 1982 after the impleading contractors came into picture, the I party failed to prove that they were working from 1977 as contended in the statement of evidence.

44. It is undisputed that the ICL, which started production in the year 1964 has taken the help of contract labourers. The major force was from SC&TC who supplied large number of labourers not only by themselves but also through their sub-contractors. In the year 1978, by taking into consideration the contract labourers supported through SC&TC are all directly involved in the production work, the demand for their absorption as company workers are accepted by the ICL and about 1753 workmen were absorbed and they are become the permanent employees of ICL. Infact earlier to this in a phased manner this company also absorbed some workmen by considering their necessity to the company. Later, also the workmen in the driving section and printing section were also absorbed because their work was perennial in nature which is absolutely necessary for running the Company.

45. Admittedly the construction work was taken in the year 1982. The encloser to Ex. W1 i.e. the list showing the labour force supplied by the impleading contractors were produced which starts from October 1982 and closed during December 1987. This particulars are produced by the first party. An attempt was made to implead the impleading contractors but after impleading they have not participated in the dispute. They have neither filed statement nor admitted to give evidence either in support of the I party or the ICL.

46. Of course an attempt has been made by the first party by producing Ex. W6 to W. 8, the alleged letters said to have been written by these impleading contractors to a Desk Officer, Ministry of Labour, where they have declared that they are the contractors only name sake. But the authenticity of this

document is not proved either by examining the authors or by producing any corroborative circumstances for the existence of this situation. Since this letter is dated 12-6-92, 4 years after termination of the contract, their genuineness required to be tested in accordance with law. Therefore, no credence can be placed on the authenticity of these documents to make was in this dispute.

47. The second party have produced the certificate of registration Ex. M4 dated 30-6-83. They also produced the proof for having contributed by the contractors towards employees PF from 20-1-83 to the end of March, 1988. The consolidated statement for each month under form 12(A) under the Employees Provident Fund Scheme, 1952 was also produced. Ex. M9 series are the acceptance of quotations filed by these impleading contractors and giving them the work order. Ex. M.10 series are form No. III, annual return under Rule 24(4A) of the minimum wages (Control Rules, 1950) and Form No. V under Rule 18 of the Payment of Wages (Mines Rules 1956) for the years starting from 1982.

48. The wage slips under form XI and Rule 26(2) also produced by giving name of the employees to prove that the gross wages paid to them which was signed by the impleading contractors as employees. A list is enclosed to Ex. W1 as per Ex. W1 b) which shows the nature of civil works carried out by these impleading contractors which prima facie shows that the civil contract work was given where these impleading contractors employed, the workmen in question. There is absolutely no material placed to show that the documents mentioned above are prepared in anticipation of this dispute.

49. Shri Nalla Thambi, the learned advocate for the first party has kept maintained that the impleading contractors are only name sake but the ICL with a view to avoid the statutory obligations has avoided to show up their direct involvement and their defence that they are the contract labourers is sham. Therefore, the contention of the learned advocate is that all these workmen having worked more than 240 days in a year, the ICL are duly bound to retrench these workmen under the act and having failed to do so the workmen are entitled for reinstatement, back wages and continuity of service.

50. Against this submission, Shri Prasad, the learned advocate representing ICL has submitted that the concerned workmen are the contract labourers directly engaged by the impleading contractors and therefore, the ICL has no statutory obligation to issue notice then terminate them and also due to the fact, they are not the employees directly employed by the ICL. The learned advocate further submitted, that the materials placed by the ICL both by oral evidence and documentary proof it cannot be said that the ICL has indulged in creating a Sham document to deprive the rights of these workmen.

51. We have discussed extensively both the oral and documentary evidence placed by both parties. We are not able to conclude that with a view to deprive these workmen, the ICL has created the impleading contractors only to get over their statutory obligations. The ICL obtained a licence under CL(R&A) Act, 1970, where they have indicated the

name of the contractors to do the civil nature of work. It is also admitted of no doubt that these workmen were engaged by the contractors to do the civil work which was not a perennial work and therefore during December, 1987 when substantial portion of the work was completed and some incidental work of asphaltting the roads remained, and later it was also completed within a short period.

52. The contention of the General Secretary that these workmen were working in the mines side from 1977 and later they have been provided work of constructional side cannot be accepted at all. Under Ex. M1 during 1-4-78 all the workmen working under SC&TC and the workmen working under sub-contractors were absorbed as company employees. If these workmen were working from 1977, as contended by General Secretary they would not have been left without absorbing along with the other workmen during 1978. Therefore, it is crystal clear that the General Secretary is giving a false evidence with regard to the fact that these workmen were working from 1977.

53. Whenever a case of this nature is to be decided, the best evidence would be the evidence of the impleading contractors. These persons are not examined by the first party to prove this aspect of the matter. At least they have not made any efforts to summon them to give their evidence in support of their contention. There is absolutely no attempt has been made by the first party who are responsible for impleading these contractors in this dispute. When the workmen came up with certain facts of allegations, it is for them to discharge this burden. With these facts and circumstances, it is very difficult to come to a contrary conclusion that these workmen were directly employed by the company. To prove a particular fact whether there should be a direct evidence or circumstantial evidence. In the absence of any of these two methods, the court cannot themselves reason as to a fact which has not supported by evidence. At least some efforts should have been made to examine some of the workmen involved in this dispute to substantiate the stand taken by the Joint Secretary that these workmen were directly employed by the ICL and only to deprive them of their legitimate right, the impleading contractors were introduced. Infact the General Secretary himself says that any workmen employed after Ex. M1, were issued with appointment orders to work in the mines. He has also admitted that the management were directly carrying out the mining activities through direct employees by making several departments. He has also admitted that under Arbitration Award Ex. M15 the contract labourers were not allowed to work in the mining side. Ex. M15 is an arbitration award which was published on 18-7-83 in the gazette of India, extraordinary. This award is passed after giving representation to the Indian National Cement and Allied Workers Federation, Bombay-4, the employers in the Cement Industry represented by the cement manufacturers association. In para 50 of this award a reference is made to the first Wage Board for Cement Industry. The relevant extract are :—

“Our recommendations should apply to workers employed at the cement factories and at the lime stone Quarries owned by the

cement producers or supplying the bulk of their output to cement factories, and to workers employed by the cement producers in the transport of lime-stone from the quarries to the factory. They should similarly apply to workers employed at places where calcareous sand or shells are collected and clay is excavated, and to workers employed by the cement producers in transporting these raw materials to the factory.

Our recommendations should apply to workers employed directly or through contractors. Our recommendations do not cover workers employed by contractors where such workers are engaged on construction work and on purely temporary jobs, not connected with the manufacturing process.

54. This arbitration award also dealt with contract labour which was demand No. 24. At para 225 a reference is made to the earlier award and reproduced at Sl. No. 166 as follows :—

We, therefore, direct accordingly that no contract labour shall be employed in the industry by the employer, except in loading (including packing) and unloading operations as stated by the First Wage Board and where an employer employs contract in any other occupations, such labour shall be made regular departmental employees under the employers and made eligible to the same wages, D.A., bonus and other allowances under our award as other regular employees under the employer, provided they give corresponding workload obtaining for similar occupations in units near about, where their compeers are getting Wage Board Rates. We further direct that all workers employed in the permitted occupations of loading (including packing) and unloading shall be given the same wages be a bonus and other benefits as are given to the regular employees of the Company.

55. By this award engaging contract labourer by the employer was totally prohibited. But the prohibition was not applicable to contract labourers engaged by the contractors to execute the civil works which are not a continuous one.

56. Therefore, it is not open to the union to say that in respect of such prohibition the employer engaged the contract labourers. It does not stand to reason also.

57. Now coming to the other aspect of the matter, such as wage registers and attendance registers which are marked as Ex. M13 series. This was admittedly maintained by the impleading contractors. The first party tried to make out a case that an employee of the ICL was attending to do this work. It is admitted by the ICL. But merely an employee was permitted to assist the impleading contractors in carrying out these statutory works does not imply that by camouflage, the ICL has indulged in this affair. Infact it is the bounded duty of the principal employer that there

should not be any statutory violation by the contractors to whom a civil work is entrusted.

58. These admissions are the conclusive proof that the concerned workmen were not engaged by the ICL and they are the contract labourers engaged by the impleading contractors to execute the constructional work. Therefore, the conclusion would be that the ICL was not terminated the services of these workmen are therefore there is no violation of Section 25F and other statutory obligations. Therefore, I am compelled to hold point 'a' in the negative and point 'b' in the affirmative.

59. Point 'c'.—We have framed this point due to contentions raised by the first party in their claim statement. The schedule to the reference refers to justification of the ICL and impleading contractors in terminating the services of the workmen in question. Consequent to wording contained in the schedule the specific case of the first party is that the contract was sham and therefore, these workmen were directly employed by the ICL and therefore, their termination from employment without complying the provisions of Industrial disputes Act is null and void and therefore, they are entitled for the reliefs claimed by them.

60. Though the contractors were also shown one of the party to justify the alleged termination, their names are not shown in the reference. Though they have been impleaded as second party members on the application made by the first party they have not taken part in this dispute by filing any statement or by examining themselves to disprove the contention of the first party.

61. We have framed the points for determination on the basis of the pleadings and the evidence placed by the contesting parties. Point number 'a' and 'b' are now decided. Since those points are decided on facts they have become conclusive as it relates to this dispute. We have already held that the first party workmen are not the direct contract labourers under the ICL, the question that the ICL required to comply section 25F of the Act is of no avail for the first party. Therefore, we have to examine this dispute to find out any violation of contract Labour Act made by ICL. For this purpose we have to examine the intentment of the act before proceeding to the settled case laws on this question.

62. The Contract Labour (Regulation and Abolition) Act 1970, hereinafter referred to as Act, has become statute by Act No. 37 of 1970. The object is shown to regulate the employment of contract labour in certain establishments and to provide for the Abolition in certain circumstances and matters connected therewith. This Act came into force from 10th February, 1971. Under Section I(4), the application to this Act is enumerated. According to this, this Act applies :—

- (a) To every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;
- (b) To every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen.

63. The proviso enforced the appropriate Government to issue a notification in this Official Gazette to apply this provision to an establishment or contractor who employed less than 20 workmen.

64. Under 5(a) of Section I, it shall not apply to establishments in which work only of an intermittent or casual nature is performed. Explanation also added to show that if the work is performed for the days shown in (i) & (ii).

65. In Chapter III the registration of certain establishments are indicated under section 7 of the Act. It reads :—

“Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishments generally or with respect to any class of them make an application to the registering officer in the prescribed manner for registration of the establishments.”

66. Under Section 9, effect of non-registration is mentioned :—

No principal employer of an establishment, to which this Act applies, shall :—

- (a) in the case of an establishment required to be registered under section 7, but which has not been registered within the time fixed for the purpose under that section.
- (b) in the case of an establishment the registration in respect of which has been revoked under Section 8, employ contract labour in the establishment after the expiry of the period referred to in clause (a) or after the revocation of registration referred to in clause (b), as the case may be.

67. Licensing of Contractors under Section 12 of the Act which is as follows :—

“With effect from such date as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a licence issued in that behalf by the licensing officer.”

68. Section 10 deals with prohibition of employment of contract labour.

69. An establishment and contractor shall apply under Sections 9 and 12 respectively if this act applies to them under Section I(4)(a) & (b) of the act.

70. If we examine the facts/ of this case, the ICL has registered the establishment under section 7 of the Act which reflected in Ex. W4. It also in conformity with Rule 18(i) of the Rules. In Ex. M4, the number of contract labourers directed to be engaged by the impleading contractors are shown as 19, 14, 16 numbers respectively. Therefore, the ICL has complied to the provisions of this Act. As it regards to the impleading contractors we have to rely only on the basis of available documents as these contractors have not participated in this dispute though they are impleaded. Ex. M4 was issued on 30-6-83. This statement showing numbers of contract labourers that would be engaged by the impleading contractors tally with the particulars supplied by the first party along with Ex. W1 i.e. details of employment particulars of R. M. Chidambaram, K. Vadivelu and J. Munesh. From May, 1983 onwards they

employed the contract labourers as indicated in Ex. W4 and at no point of time the strength was increased to 20 or more. As per sec. 2(4), the application of this Act, as it refers to contractor would be if he employs 20 or more workmen any day of the preceding 12 months. An accidental employment of 20 workmen before obtaining a registration certificate by the principal employer does not imply that a licence is necessary. Therefore there is no obligation for the contractors to obtain a licence under section 12 of the Act.

71. Therefore, and facts as it stands does not give rise to a conclusion that the ICL violated the provisions of this Act. The object of this Act is for regulation and abolition of contract labour. The regulation in the legal parlance is to regularise the employment of contract labourers by absorption or by extending the provisions of the ID Act if their removal from service amounts to retrenchment. Abolition is a fact where the appropriate Government feels that there is exploitation of labour class it can abolish under section 10 of the Act, if the conditions of work and benefits provided for the contract labour is not in accordance with the Act. Now we are to deal with the case laws which the parties have placed their reliance.

72. The learned advocate for the first party placed reliance of judgement which are to be examined with reference to the case made out by 1st party.

73. The workmen of Best Crompton Engineering Ltd. and the management of Best and Crompton Engineering Ltd., Madras and others, reported in 1985 1 LLJ 492, a division bench of Madras High Court while considering section 11(2)(b), 7, 10 and 12 read with Rules 21(1) and 35(1) of Tamil Nadu Contract Labour (Regulation and Abolition) Rules, 1975, held that the workmen engaged by contractor working for management without holding valid licence would be workmen engaged by the management itself.

74. The learned judges have formed the opinion as the number of workmen engaged as contract labourers are 75. Therefore, it is considered that the establishment and the contractor shall have registration and valid licence respectively under the Act. In the absence of these materials the court came to the conclusion that the workmen involved are the persons engaged by the management itself.

76. In FCI loading and unloading workers union V/s. FCI, 1987 1 LLJ 407, a learned single Judge of High Court of Karnataka in an identical circumstances where the corporation did not have a certificate of registration under the Act, the workman employed by the contractor could legitimately claimed that they were the workmen of the corporation. The total number of workmen involved in this case were about 450. Therefore, the court considered that their termination of employment amounts to retrenchment and the management have not complied Section 25B and 25N and 25F of the ID Act, their termination is null and void and they are entitled for reinstatement and other benefits.

77. A similar view was taken by a learned single Judge of High Court of Bombay, United Labour and others and Union of India and others, 1991, 1 LLJ, in this decision also the Principal employer had no Registration Certificate and the contractor does not possess a valid licence.

78. Similar view was also taken in FCI workers Union and Food Corporation of India, 1992, 1 LLJ 257 by a division bench of the High Court of Gujarat.

78. In a latest decision of the Supreme Court in 1999 (2) LLN 612, Secretary Haryana State Electricity Board and Suresh and Others, the learned judges after considering that the board neither Registered as Principal Employer nor Contractor was licenced Contractor came to the conclusion that there was no contract system with the board and also due to the fact the work was of perennial nature came to the conclusion that the so-called Contract System was of a Camouflage and therefore, Employer, Employee relationship is visualised and the employees who have worked for more than 240 days in a year are entitled to be absorbed permanently in the board.

80. The next citation relied by the learned advocate is the judgment of Allahabad High Court reported in 1991 Lab I.C. which dealt with the power of the tribunal to decide incidental questions in a dispute.

81. In M/s. Gammon India Ltd. V/s Union of India and others 1974 Lab I.C. 707 on which a strong reliance was placed by the I party was a case where the petitioners carry on the business of Contractors for Construction of Roads, Buildings Bridges and Dams. The petitioner further contended, that they are not contractors within the definition of the Act. They advanced two reasons. First, the work of the petitioners is not any part of work of the principal employer nor is it they work in connection with the work of the establishment, namely principal employer. The second contention was the work of the petitioners is normally not done in the premises of the establishment of the principal employer.

82. Therefore, the question before their lordships was to interfere the award of the labour court which held that the removal of three workmen amounts to retrenchment and since the compensation was not given they are entitled for reinstatement. On this question the Supreme Court dismissed petitions of the petitioners.

83. In Gujarat Electricity Board and Hind Mazdoor Sabha, 1995 11 LLN 59, the question before the Hon'ble Supreme Court was the prohibition of contract labour system, if it is raised, whether the industrial tribunal or appropriate government has power to abolish contract labour system, and in case contract labour system is abolished what is the status of erstwhile workmen of contractors. The Supreme Court held that it is only the appropriate government which has authority to abolish genuine contract labour system. If the contract is sham or not genuine the workmen of so-called contractor can raise an industrial dispute for declaring that they are employees of principal employer and can claim appropriate service conditions. If labour contract is genuine a composite industrial dispute can be raised for abolishing contract labour and their absorption.

84. In Gujarat Mazdoor Panchayat and State of Gujarat and others 1992, 2 LLJ 486 the question before the court was holding of parallel proceedings on section 10 and 12 of the Act and the power of the Conciliation Officer to decide the question if the workmen contend that existing contract labour system was mere camouflage.

85. In para 33 of the judgement their lordship held :—

“Conditions laid down in the provisions of contract Labour Act have nothing to do with the question whether the so called contract labour system employed in any establishment is a genuine contract labour system or a mere camouflage or paper arrangement and the contractor's workmen in essence and substance are the workmen of the principal employer. Such types of disputes are clearly foreign to the scope and ambit of section 10 of the Contract Labour Act and they squarely fall within the four corners of the Industrial Disputes resolution machinery as contemplated by the ID Act.

86. The present dispute is not for a declaration that the concerned workmen are the workmen of the principal employers but on the assumption, the contention of the workmen is that stopping of the contract with the impleading contractors amount to termination and therefore, their termination attracts section 25F of the ID Act.

87. The learned advocate for the ICL has placed reliance on some of the judgements in support of the defence taken by the ICL.

88. *Vegoils Pvt. Ltd. and Workmen*, 1971 (2) LLJ 567, the question before their lordships of the Supreme Court was the jurisdiction of the Industrial Tribunal to consider the question of abolition of contract labour. The Supreme Court against the order of industrial tribunal, considered this aspect of the matter and concluded that the jurisdiction to decide the abolition of contract labour or to prohibit the employment of contract labour is now to be done in accordance with Section 10 of the Act.

89. In *Gujarat Electricity Board, Thermal Power Station, Gujarat and Hind Mazdoor Sabha and Ors.*, 1995(2) LLJ 790 their lordship of the Supreme Court, under the act dealt with several aspects of the matter which requires close examination in deciding this dispute.

90. This lordship initially considered Sections 2(k) 2(s) and 10(2) of Industrial Disputes Act with Section 10 of Contract Labour Act. A joint application was made to the Assistant Commissioner of labour under Section 10(2) of the Industrial Disputes Act requesting that the dispute mentioned therein be referred to adjudication to the Industrial Tribunal. After receiving the objections the Industrial Tribunal gave an interim award directing Gujarat Electricity Board to pay to the workmen at the rate of Rs. 9.40 per day till the disposal of reference and other directions also given. Later the tribunal passed the final award holding that the workmen concerned in the reference could not be the workmen of the contractor and the workmen should be deemed to be the workmen of the Electricity Board. The writ petition filed by the board was dismissed by the High Court. The Supreme Court held :—

“That after coming into operation of Contract Labour (Regulation & Abolition) Act, 1970, the authority to abolish the Contract Labour System is vested exclusively in the appropriate Government which has to take its decision in the matter, in accordance with the provision

of Sec. 10 of the aforesaid Act. It has to be remembered the authority to abolish the Contract Labour under Sec. 10 of the Act comes into play only where there exist a genuine contract. In other words, if there is no genuine contract and so called contract is sham or camouflage to hide the reality then the said provisions are inapplicable. When in such circumstances, the concerned workmen raise an Industrial Dispute for relief that they should be deemed to be the employees of the principal employer the Court or the industrial adjudicator will have jurisdiction to entertain the dispute and grant the necessary relief.

It is no doubt true that neither Sec. 10 of the Contract Labour (Regulation & Abolition) for determination of status of the workmen of the erstwhile contractor once the appropriate Government abolishes the Contract Labour. In fact, on the abolition of the contract, the workmen are in a worse condition since they can neither be employed by the contractor nor is there any obligation cast on the principal employer to engage them in his establishment. The Legislature has not provided any relief for the concerned workmen, after the contract is abolished. Where an industrial dispute is raised on behalf of the erstwhile contractor, the status of the workmen will be as determined by the Industrial adjudicator. If the Contract Labour System is abolished while the Industrial adjudication is pending or is kept pending on the concerned dispute, the adjudicator can give direction in that behalf in the pending dispute. If however no Industrial Dispute is pending for determination of the issue, nothing prevents an industrial dispute being raised for the purpose. If the contract is not genuine, the workmen of the contractor themselves can raise such a dispute since in raising such dispute the workmen concerned would be proceeding on the basis that they are in fact the workmen of the principal employer and not of the contractor. The dispute would squarely fall within the definition of Industrial Dispute under Sec. 2(k) of the ID Act being the dispute between the employer and employees. In that case the dispute would not be for abolition of contract labour, but for securing the appropriate service conditions from the principal employer on the footing that the workmen concerned were always the employees of the principal employer and they were denied their dues. In such a dispute the workmen are required to establish that the so called Labour Contract was sham and was only a camouflage to deny their legitimate rights.

91. Their lordships have also further considered the powers of Industrial Adjudicator to abolish genuine contract labour and also on the point of espousal. It was held :—

(1) In view of the provision of Sec. 10 of the Contract Labour (Regulation & Abolition)

Act, it is only the appropriate Government which has the authority to abolish genuine labour contract in accordance with the provision of Sec. 10 and no court including the Industrial Adjudicator has jurisdiction to do so.

- (2) If the contract is sham or not genuine the workmen of the so called contractors can raise an Industrial dispute for declaring that they were always the employees of the principal employer and for claiming appropriate service conditions. When such dispute is raised, it is not a dispute for abolition of Labour Contract and hence the provisions of Sec. 10 of the Contract Labour (Regulation and Abolition) Act will not bar with the raising or the adjudication of the dispute. When such dispute is raised the Industrial adjudicator has to decide whether the Contract is sham or genuine. It is only if the adjudicator comes to the conclusion that the Contract is sham then he will have jurisdiction to adjudicate the dispute. If however, he comes to the conclusion that the Contract is genuine, he may refer the workmen to the appropriate Government for abolition of the Contract Labour under Sec. 10 of the Act and keep the dispute pending. However he can do so if the dispute is espoused by the direct workmen of the principal employer. If the workmen of the principal employer have not espoused the dispute, the adjudicator after coming to the conclusion that the contract is genuine, has to reject the reference, the dispute being not an industrial dispute within the meaning of Sec. 2(k) of the I.D. Act. He will not be competent to give any relief to the workmen of the erstwhile Contractor even if the labour contract is abolished by the appropriate Government under Sec. 10 of the Act.
- (3) If the Labour Contract is genuine, a composite industrial dispute can be raised for abolition of the Contract Labour and their absorption. The dispute will have to be raised invariably by the direct employees of the principal employer. The Industrial adjudicator after receipt of the reference of such dispute, will have first to direct the workmen to approach the appropriate Government for abolition of contract labour under Sec. 10 of the Act and keep the reference pending. If pursuant to such reference the Contract Labour is abolished by the appropriate Government, the Industrial adjudicator will have to give an opportunity to the parties to place the necessary material before him to decide whether the workmen should be directed to be absorbed by the principal employer, how many of them and on what terms. If however, the Contract Labour is not abolished, the Industrial adjudicator has to reject the reference.
- (4) Even after the Contract Labour system is abolished, the direct employees of the principal employer can raise a dispute for absorp-

tion of ex-contractor's workmen and the adjudicator on the materials placed before him can decide as to who and how many of the workmen should be absorbed and to what terms.

92. While deciding the above questions their lordships have also examined a judgement in *Dena Nath & Ors. v. National Fertilizers Ltd. & Ors.* (1992-I-LLJ-289). The question involved in that case was :

Whether, if the principal employer does not get registration under section 7 and/or the contractor does not get licence under section 12 of the Act, the labour engaged by the Principal employer through the contractor is deemed to be the direct employees of the principal employer or not. On this point there was a conflict in the decisions of High Courts of Delhi, Calcutta, Punjab and Kerala on the one hand and of High Courts of Madras, Bombay, Gujarat and Karnataka on the other. The view taken by the former High Courts was that the only consequence of the non-compliance of the provisions of Section 7 and 12 of the Act was that the principal employer and the contractor as the case may be, are liable for prosecution under the Act whereas the view taken by the latter High Courts was that in such situation the contract labour became the direct employees of the principal employer. After noticing the decision of this Court in *Standard Vacuum Refining Co. case (supra)* and going through the genesis of the Act, the Court held that it is not for the high court to enquire into the question and decide whether the contract labour in any process, operation or any other work in any establishment should be abolished or not. It is a matter for the appropriate Government to decide after considering all the matters as required by Section 10 of the Act. The Court further held that the only consequence provided under the Act where either the principal employer or the labour contractor violates the provisions of Sections 7 or 12, as the case may be, is the penalty as envisaged under Sections 23 and 25 of the Act. Merely because a contractor or an employer has violated a provision of the Act or the Rules, the court cannot issue any mandamus for deeming the contract labour as having become the employees of the principal employer. The court referred to the decisions of the Karnataka and the Gujarat High Courts (the latter is under challenge in the present proceedings) and observed that it would not like to express any opinion on the same since they were under challenge in this court but would place on record that it did not agree with the observations of the Madras High Court regarding the effect of the non-registration of the principal employer or the non-licensing of the labour contractor nor with the view of the Bombay High Court which was under consideration before it. The Court further stated that it was of the view

that the decisions of the Calcutta and Delhi High Courts were correct and approved of the same.

93. Management of Theatre Sanjaya Vs. State Karnataka and others 1974(1)LLJ 459 is the judgement of a full court of Karnataka High Court. The reference is only to give a finding on the principle of audi alterim partem. The court approved that if the government refused to refer the dispute and if later it decides to refer the dispute the other party shall be given an opportunity to have their say of this question.

94. In this case also the Government has refused to refer the dispute earlier and later it decided to refer the dispute. It is submitted a notice was given to ICL but they have not represented.

95. The conspectus of the above decisions, in short, are :—

- (1) that the workmen are entitled for the benefit of reinstatement/absorption only in cases where they have worked continuously for 240 days and above in a given year under the principal employer. In the event their termination, the employer failed to follow the principles laid down under the law of retrenchment, they are eligible for reinstatement, if they show that the contracts are sham and to escape the legal liability the management invented to engage them under contractors.
- (2) If a contractor engages less than 20 workmen as contract labourers the act will not be applicable and therefore, there is no violation of Section 12 of the Act.
- (3) The management shall have a registration certificate, if the contract labourers engaged by them through contractors.
- (4) If there is violation of Section 7 or Sec. 12 the penal consequences will follow and not reinstatement/absorption.
- (5) For regularisation/absorption, the schedule to the reference should spell out the intention of a reference.
- (6) Even if the principal employer does not possess a registration certificate, question of reinstatement does not arise but the Government may initiate proceedings under penal law.

96. Having regard to the facts and circumstances, discussed above, I have to hold point 'c' also in the negative. Consequent to this conclusion following order is made :—

ORDER

The first party failed to establish that they are the contract labourers directly employed by the ICL and they also failed to establish that the impleading contractors are name sake and also they have failed to establish that there was termination by the ICL. Therefore the reference is rejected.

Justice R. RAMAKRISHNA, Presiding Officer.

नई दिल्ली, 9 सितम्बर, 1999

का. आ. 2824 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कल्याणपुर सीमेंट लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा न्यायालय सं. 1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-9-99 को प्राप्त हुआ था।

[सं. एल-29011/40/91-आई. आर. (विविध)]

बी. एम. डेविड, प्रवर सचिव

New Delhi, the 9th September, 1999

S.O. 2824.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, No-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers, in relation to the management of Kalyanpur Cement Ltd., and their workman, which was received by the Central Government on 9th September, 1999.

[No. L-29011/40/91-IR (Misc.)]
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 78 of 1991

PARTIES :

Employers in relation to the management of Kalyanpur Cement Ltd.

AND

Their Workmen

PRESENT :

Shri Sarju Prasad,
Presiding Officer.

APPEARANCES :

For the Employers : Shri G. Prasad, Advocate;
For the Workmen : Shri B. B. Pandey, Advocate,
For the sponsoring : Shri D. K. Verma, Advocate Union.

State : Bihar.

Industry : Cement.

Dated, the 18th August, 1999

AWARD

By Order No. L-29011/40/91-I.R. (Misc.) dated 16-8-1991 the Central Govt. in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Kalyanpur Cement Company in dismissing its employees Md. Suleman and 17 others (List enclosed) employed in stone quarries and other departments with effect from 26-3-1991 is justified? If not, to what relief the workmen are entitled?"

2. This reference case relates to the dismissal of 18 concerned workmen from service of the management. Out of 18 concerned workmen the dispute relating to 13 concerned workmen were amicably settled by the parties and they filed a compromise petition before this Tribunal and this Tribunal passed an award dated 4-7-1997 in terms of the compromise petition.

3. Now, out of 5 remaining concerned workmen the dispute relating to Dinanath Pathak has also been settled by the parties and memorandum of settlement has also been filed before this Tribunal. Accordingly, on the basis of the com-

promise petition, I render an award relating to Dinanath Pathak, one of the concerned workmen.

4. The dispute relating to remaining four concerned workmen will remain pending for which 5-10-1999 has been fixed for hearing.

SARJU PRASAD, Presiding Officer

MEMORANDUM OF SETTLEMENT ARRIVED ON 29-9-98 BETWEEN M/S. KALYANPUR CEMENTS LTD. AND SRI DINANATH PATHAK, S/O SRI NANDLAL PATHAK, CILL-BASKATIA, P.O. ROHTAS, DISTRICT ROHTAS

PRESENT:

REPRESENTING MANAGEMENT:

Shri P. C. Satapathy, Sr. Vice President Works.

DINANATH PATHAK

Short recital of the case

1. Sri Dinanath Pathak who was working as HEO in Quarry Workshop & Garage of M/s. Kalyanpur Cements Ltd. having E. No. 2011 was dismissed from the service on 26-3-91 for various misconducts committed by him in course of illegal strike in the year 1990. Without his consent and approval Kalyanpur Cement Karmachari Sangh raised and sponsored an industrial dispute before Labour Authority of Central Government. The Central Government referred the dispute to Central Govt. Industrial Tribunal No. 1, Dhanbad, for adjudication being reference 78 of 1991. This reference includes the name of some other employees also who were dismissed for their active illegal participation and misconduct in course of illegal strike.

2. Sri Dinanath Pathak approached the management and submitted one written application dated 28-9-98 accepting his guilt levelled against him for the misconduct committed by him during the illegal strike in 1990 and also offered unqualified apology for sympathetic consideration of his case by allowing him fresh employment. He also stated in his petition that he was not interested in the adjudication proceedings and for that he has also filed separate petition before the Central Govt. Industrial Tribunal No. 1, Dhanbad. He also waived his claim regarding back wages, benefits, perquisites for the period of his dismissal. Apart from the petition Sri Dinanath Pathak made personal requests before the management and sought pardon for the act of misconduct committed by him during the illegal strike. In view of the request made by Sri Dinanath Pathak and the management arrived at following settlement:

Terms of Settlement

1. The management agreed that Sri Dinanath Pathak will be taken on fresh employment temporarily for 6 (six) months on a consolidated salary of Rs. 4,300/- (Rupees Four thousand and three hundred) only per month.

2. He will not claim any back wages, other benefits and allowances for the period from the date of dismissal till the date of fresh employment on temporary basis.

3. It was agreed that in case the Award given by the Central Govt. Industrial Tribunal No. 1, Dhanbad, in Ref. No. 78/91 is not in consonance with the terms of settlement, Sri Dinanath Pathak waives his right to claim back wages, other benefits and allowances for the period from the date of his dismissal till the date of fresh employment on temporary basis and he will not agitate the matter before any appropriate authority under the law.

4. Sri Dinanath Pathak further agreed to work as and when required/advised on any job appropriate to his capability in any department.

Sd/-

(DINANATH PATHAK)

For Employer

(P. C. SATAPATHY)

SR. VICE PRESIDENT WORKS

WITNESSES:

Sd/-

1. Illegible

2. Illegible

1. Ajay Kumar Lal

2. Arun Kumar Singh

3. Sd/- Illegible

नई दिल्ली, 9 सितम्बर, 1999

का. आ. 2825.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयरन ओरी कम्पनी लि. के प्रबन्धतंत्र के संबद्ध निरोजकों और उनके कर्मकारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-9-99 को प्राप्त हुआ था।

[सं. एल-29015/5/96-आई. आर. (विधि)]

बी. एम. डेविड, प्रवर सचिव

New Delhi, the 9th September, 1999

S.O. 2825.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Iron Ore Company Ltd., and their workman, which was received by the Central Government on 9th September, 1999.

[No. L-29015/5/96-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT: BANGALORE

DATED: 13-8-1999

PRESENT:

JUSTICE R. RAMAKRISHNA
PRESIDING OFFICER

C. R. NO. 255/97

I PARTY

Shri A. K. Shamanna
A-109, KTOCL Township,
Kavoor,
Mangalore-575 015

II PARTY

The Additional General
Manager, Kudremukh
Iron Ore Company Limited,
Panambur,
Mangalore.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-29015/5/96-IR (Misc.) dated 16-7-97 on the following schedule:

SCHEDULE

"Whether the action of the management of Kudremukh Iron Ore Co. Ltd., Panambur, Mangalore in dismissing Shri A. K. Shamanna, Messenger, Staff No. 3149 w.e.f. 8-2-1995 is justified? If not, what relief the workman is entitled to?"

2. This reference is received on 28-7-1997. The notices issued to both parties by ordinary post are duly served. Since the parties failed to appear, we have issued the notices by RPAD. The second party after receipt of the notice appeared through a learned advocate. The notice issued to the first party returned unserved with a Shara "addressee left, present address not known". In view of the above endorsement there is no other mode to serve the notice to the first party.

ORDER

This reference is rejected.

JUSTICE R. RAMAKRISHNA, Presiding Officer.

नई दिल्ली, 8 सितम्बर, 1999

का.ग्रा. 2826:— औद्योगिक विवाद अधिनियम, 1947 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं-1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-9-99 को प्राप्त हुआ था।

[सं.एल-20012/(167)/91-आई.आर. (सी-I)]

बी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 8th September, 1999

S.O. 2826.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E. C. Ltd. and their workman, which was received by the Central Government on 8-9-99.

[No. L-20012/(167)/91-IR(C-1)]
V. S. A. S. P. RAJU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 126 of 1991

PARTIES :

Employers in relation to the management of Rajmahal Project of M/s. Eastern Coalfields Ltd.

AND

Their Workmen.

PRESENT :

Shri Sarju Prasad, Presiding Officer.

APPEARANCES :

For the Employers : Shri M. D. Singh, Personnel Manager.
For the Workmen : Shri B. P. Choudhary, Workman concerned.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 16th August, 1999

AWARD

By Order No. L-20012(167)/91-I.R. (Coal-I) dated 25-11-91 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the dismissal from service of Shri B. P. Choudhary, Ex-E. P. Fitter, ECL Rajmahal Project and denial by the management to take him back in employment with full back wages and consequential benefits was in order and justified? If not, what are the proper reliefs for him?"

2. The present reference relates to an adjudication whether the dismissal of the concerned workman, Shri B. P. Choudhary, Ex-E. P. Fitter of M/s. E. C. Ltd., Rajmahal Project and denial by the management to take him back in employment with full back wages and consequential benefits is in order and justified? The further reference is if not what are the proper reliefs for him.

3. The brief fact giving rise to an industrial dispute is that the concerned workman, B. P. Choudhary, was an E. P. Fitter at ECL, Rajmahal Project and his appointment was as a permanent workman of the said colliery. On 6-11-1986 a chargesheet was issued to him in which it was alleged that on 28-10-86 the concerned workman, B. P. Choudhary, was found absent in his working place although he had marked his attendance for that day and he remained absent upto 11.30 a.m. Due to his absence from the work place a dozer remained idle for want of checking and the same could not be pressed for its operation. The further allegation in that chargesheet is that on that very day at about 4.30 p.m. he alongwith some other workers came to the Lalmatia Workshop in furious mood and charged Shri H. P. Singh, JET(X) in a very disorderly manner and questioned as to why he has cut the attendance of Shri Choudhary and thereafter abused him in filthy language and threatened him with dire consequences and they shouted 'CHEHRA BIGAR DENG' and ultimately gheraoed Shri Singh for sometime and forced him to mark present for that day with respect to the concerned workman, B. P. Choudhary. Therefore, according to the Model Standing Orders applicable for Coal Mining Industry the concerned workman has committed misconduct as defined in Para 17(i)-(p), (r) & (t). The concerned workman was directed to file written explanation after receipt of this chargesheet as to why disciplinary action shall not be taken against him. To this chargesheet the concerned workman submitted an explanation dated 12-11-1986 in which he has stated that he was on duty in 1st shift and after marking his attendance he has not gone anywhere and he was marked absent at 9 a.m. itself. When he came back after attending call of nature and refreshment at about 9.45 Shri Singh could not see him. Therefore, it is false to say that he was absent till 11.30 a.m. He has altogether denied the allegation of abusing and threatening Shri H. P. Singh, JET(X) and forcing him to mark him present but he has stated that he had never gone to the Workshop at 4.30 p.m. rather the other people had assembled prior to his arrival there at about 5 p.m. and his motive for going there is only to know about hazri being struck off and there was no motive to spread any unpleasant situation.

4. The management found the reply of the concerned workman unsatisfactory and therefore a domestic enquiry was ordered by the Superintendent of Mines/Manager, Rajmahal O.C.P. by order dated 20-11-86 and Shri B. Shukla, Senior Personnel Officer of Rajmahal Area was appointed as Enquiry Officer for holding an enquiry into the charges framed against the workman concerned.

5. Again a 2nd chargesheet was issued to the concerned workman alleging that on 25-11-86, B. P. Choudhary, the concerned workman, led about 150 workmen to M.T.K. Room where Shri L. K. Choudhary, Jr. Mining Engineer was sitting. He instigated the workmen to manhandle Sri L. K. Choudhary and gheraoed him for four hours till 3.00 a.m. on 26-11-86. The gherao was lifted only at the intervention of Officer-in-Charge, Lalmatia P.S., Sri R. B. Tiwary, Security Officer and Sri B. D. Tiwary, Sr. P.O., Rajmahal O.C.P. Thus by said act the concerned workman has committed misconduct as mentioned in Paras 17(i)(c), 17(i)(e), 17(i)(i), 17(i)(r) and 17(i)(t) of model standing order. This chargesheet was issued by office letter No. ECL : RJML : AOM : OCP : 24/799 dated 28-11-86. The concerned workman did not submit any reply to their chargesheet. Then another enquiry was constituted by the Superintendent of Mines/Manager, O.C.P., Rajmahal by order dated 10-1-87 and Shri B. Shukla, Sr. Personnel Officer was Chairman of that Enquiry Committee and Shri S. K. Sinha, Engineer (E&M), Rajmahal OCP as member and the concerned workman was directed to submit his reply of the explanation, if any, to the Enquiry Committee. The workman submitted his explanation dated 13-1-87 and after notice the Enquiry Committee held an enquiry in which the concerned workman fully participated and in his presence the management examined its witnesses and the concerned workman too produced his witness and on the basis of enquiry held by the Enquiry

Committee a report dated 30-5-87 was submitted finding the workman guilty of all the charges except the charge of drunkenness, fighting or riotous, disorderly behaviour while on duty at the place of work. However, the concerned workman had not taken part in the enquiry on the chargesheet dated 6-11-86 which has proceeded ex-parte and the Enquiry Committee has submitted a report holding the workman guilty of the charges of misconduct mentioned in chargesheet dated 6-11-86 too. Thus, on consideration of both the findings the management concluded that it is a fit case for dismissal of the concerned workman. Therefore, the concerned workman was dismissed by letter dated 13/14-6-87 from service by Dy. C.M.E./Agent, Rajmahal O.C.P.

6. The concerned workman then raised an industrial dispute before the R.L.C.(C), Dhanbad who found the action of the management justified but directed the concerned workman to submit a mercy petition on the basis of which the concerned workman, B. P. Choudhary submitted a mercy petition on the basis of which the management agreed to reinstate Sri Choudhary with transfer to S. P. Mine with an advice to make an agreement in Form-H. Sri Choudhary was accordingly intimated to sign the agreement by letter dated 12/13-12-88 but he did not accept the proposal of the management and then he raised the industrial dispute before the Asstt. Labour Commissioner (Central), Patna on the basis of which the present reference has been made.

7. According to the management the action of the management is proper and justified because the concerned workman has been found guilty of misconduct on the basis of two chargesheets issued to him and the misconduct being grave and there being no extenuating circumstance the punishment of dismissal is proper and justified. The management has further taken a plea that since the concerned workman was allowed to be reinstated with transfer to some other area of the same company which the concerned workman has refused, therefore now the concerned workman is not entitled to any relief whatsoever. According to the management the domestic enquiry was held, after due notice to the concerned workman, which was fair and proper and the finding of the domestic enquiry was fully justified.

8. The workman on the other hand has pleaded that both the chargesheets are concocted and based on false charges. He has not committed any misconduct and as because he is the active member of a trade union, therefore the management has illegally dismissed him which is violative of natural justice and amounts to victimisation and mal-practice. According to him, as per Mines Act, Section 30(2) the management cannot take more than 12 hours duty from a miner and in taking duty the management is required to give half-an-hour lunch or recess period as a period of rest to a miner so that a miner is not compelled to work more than 5 hours continuously. According to him on the date of occurrence i.e. 28-10-86 he had gone out for attending call of nature and taking refreshment after performing five hours duty with due intimation to his co-worker and returned back at 11.30 a.m. to his work place but Sri H. P. Singh, JET(X), who had no experience and had no knowledge about the rules, struck off his attendance which he subsequently rectified of his own by marking him present. There was no filthy abusing or threatening to Shri H. P. Singh at 4.30 p.m. and the allegations levelled in the chargesheet are incorrect and false.

9. With respect to 2nd chargesheet the concerned workman has denied the allegations as totally false and the same are concocted in order to victimise the concerned workman.

10. After submission of written statements from both sides a preliminary issue was taken up for considering whether the domestic enquiries held by the management were fair and proper and after due consideration of the evidence put forward by my predecessor-in-office by order dated 30-5-93 held the domestic enquiry with respect to 1st chargesheet i.e. chargesheet issued by letter No. 746 dated 6-11-86 not fair but he was pleased to hold that the enquiry with respect to 2nd chargesheet which is dated 28-11-86 is fair and proper. Thereafter the management has adduced evidence to prove the misconduct against the concerned workman with respect to allegations levelled in 1st chargesheet which is chargesheet dated 6-11-86 and which was held not fair by the order of this Tribunal dated 23-5-95. The management thereafter has examined its witnesses to justify its action and to prove the

charges levelled in the 1st chargesheet dated 6-11-86 and the workman too has adduced evidence in his defence.

11. Now, the point for consideration is,—(i) whether the report of the Enquiry Committee in respect of 2nd chargesheet i.e. chargesheet dated 28-11-86 is justified? (ii) whether the management has been able to prove the charges levelled in the 1st chargesheet dated 6-11-86 against the concerned workman? and (iii) whether the action of the management in dismissing the concerned workman is justified? If not, to what relief or reliefs, if any, the concerned workman is entitled to?

FINDINGS

12. Point No. (i).—Since this Tribunal has already considered the fairness and propriety of the domestic enquiry held by the management and came to the conclusion that the enquiry is fair and proper, therefore, now the only thing to be considered is to see on reappraisal of the evidence adduced in the domestic enquiry if the charge of misconduct which has been found to be proved except the charge of drunkenness, fighting or riotous etc. is justified. The management has brought on record the entire proceedings of the enquiry including the evidence recorded during the domestic enquiry which has been marked Ext. M(A)-12 and the report of the enquiry dated 30-5-87 has been marked Ext. M(A)-13. Ext. M(A)-1 is the Office Order constituting Enquiry Committee to hold enquiry on the chargesheet No. 799 dated 28-11-86 issued to Sri B. P. Choudhary, E. P. Fitter of Rajmahal O.C.P. and Ext. M(A)-2 is the chargesheet dated 28-11-86. Ext. M(A)-5 is the explanation dated 22-12-86 of the workman after receipt of the chargesheet in which he has refused to reply the charges because the chargesheet is not in Hindi. From the evidence of Sri B. P. Choudhary, the concerned workman, it appears that his defence is that he was simply an spectator to the incident whereas according to the management he was leading a mob of about 150 workers to M.T.K. Room where Sri L. K. Choudhary, Jr. Mining Engineer was sitting at about 11-00 p.m. on 25-11-86. He instigated the workmen to manhandle Sri L. K. Choudhary and he was gheraoed for four hours till 3-00 a.m. of 26-11-86, when the gheraoed was lifted only on the intervention of the Officer-in-Charge, Lalmatia P.S., Security Officer Sri R. B. Tiwary and Senior P.O., Sri B. D. Tiwary. The charges were explained to the concerned workman who has denied the charges. Thereafter the management has adduced four witnesses in support of the charges whereas the concerned workman has examined one defence witness, Ramu Bind, D. S. Operator. Besides he has given his own evidence. From the evidence of the management's witness No. 1—Sri L. K. Choudhary I find that he has stated that on the night of 25-11-86 he was on duty in the 2nd shift. At about 11-00 p.m. he went to M.T.K. Room to prepare report of his shift i.e. 2nd shift. While he was preparing report about 150 workers gheraoed him and the mob was represented by Sri B. P. Choudhary, the concerned workman and one Sri Ghanshyam Mandal, T. T. Driver. These two persons were pressing him to give in writing that one Lalan Pd. Yadav was beaten up by the Security Guard on his instruction. He refused to give in writing as it was not at all true. Therefore he was kept in gherao. During the gherao period the mob was using filthy language upon him and they were provoking and inciting the workmen. Anyhow he managed to send information to Sri J. C. Mandal, Mines Superintendent. Thereafter Sri Sahnawaz Khan, Officer-in-Charge, Lalmatia P.S. alongwith Sri R. B. Tiwary, Security Officer and Sri B. D. Tiwary, Sr. P.O. rushed there at about 2-00 a.m. and they contacted the leader and tried to convince them and ultimately the gherao was lifted only when this witness gave in writing to Ghanshyam Mandal and the concerned workman that Lalan Pd. Yadav, Dumper Operator was operating dumper in slow speed, so the Security Personnel beat him and he was dragged upto the area office. This was written by him under pressure from Ghanshyam Mandal and the concerned workman, B. P. Choudhary. He has been cross-examined by the co-worker of the concerned workman and from his cross-examination it has been elicited that the concerned workman, B. P. Choudhary was leading the mob and actually the concerned workman had his duty in the general shift. Therefore he was not expected to be present

there when the 2nd shift was going to end and the 3rd shift was going to start. There is nothing in his cross-examination nor there is any suggestion that he has made any false statement. The evidence of this witness has been supported by the management's 2nd witness, MW-2—R. B. Tiwary who had reached there on information being sent to him by Sri J. C. Mandal, the Superintendent of Mines. He went there along with the Officer-in-Charge of Lalmatia P.S. and B. D. Tiwary, Sr. P.O. and they saw that workers had gheraoed Sri L. K. Choudhary and the concerned workman, B. P. Choudhary was provoking the workers and he was instigating them. They tried to convince the agitated mob but the concerned workman, B. P. Choudhary and Ghanshyam Mandal both told him that the gherao cannot be lifted unless and until Sri L. K. Choudhary gives them in writing that Lalan Pd. Yadav, Dumper Operator, has been beaten up by the Security personnel. Having seen the gravity of situation this witness advised Sri L. K. Choudhary, Under Manager, to give him in writing. Accordingly he gave in writing to Sri Ghanshyam Mandal and then the gherao was lifted. In cross-examination there is nothing to disbelieve his statement. The statement of Sri L. K. Choudhary is further supported by the management's 3rd witness MW-3—Sri P. N. Sinha who has stated that on 25-11-86 he was attached in 1st shift but on that day at about 11:00 p.m. he was called by Sri J. C. Mandal, Mines Superintendent to go in duty in the 3rd shift and accordingly he went there at 11:10 p.m. in Boxcut to take charge from Sri L. K. Choudhary. At that time the workers of both the shifts were present and the environment was tense. When he tried to find out the reason for such tense situation then he learnt that one Sri Lalan Pd. Yadav, Dumper Operator, has been assaulted by the Security personnel under instigation of Sri L. K. Choudhary. Therefore the agitated workers were demanding that Sri L. K. Choudhary should be sent out of M.T.K. Room so that they can take revenge. In the meantime Sri Ghanshyam Mandal, T. T. Driver, entered into the M.T.K. Room followed by the concerned workman, Sri B. P. Choudhary and used taunting words to Sri L. K. Choudhary. When this witness wanted to interfere the concerned workman, Sri B. P. Choudhary asked him that he should not interfere in the matter. The concerned workman, Sri B. P. Choudhary informed him that the workers were not going to release and lift the gherao till Sri L. K. Choudhary gives them in writing. They also tried to drag out Sri L. K. Choudhary from M.T.K. Room for physical assault. This witness tried to convince the agitated mob that they should be submissive and he sent information about the incident to Sri J. C. Mandal and after 45 minutes Sri R. B. Tiwary, Security Officer, Sri B. D. Tiwary, Sr. P.O. and Sri Sahnawaz Khan came to the spot. They watched whole situation and after long persuasion they advised Sri L. K. Choudhary to give him in writing which he actually did and handed over to Sri Ghanshyam Mandal, then the gherao was lifted at 3:00 a.m. This witness has been cross-examined at length but there is nothing in cross-examination from which his testimony can be disbelieved. The management's witness No. 4—Sri B. D. Tiwary, MW-4, has also supported the incident and from his evidence it is clear that the concerned workman was amongst the mob who had gheraoed Sri L. K. Choudhary, Under Manager and the gherao was lifted only when Sri L. K. Choudhary gave in writing that one Lalan Pd. Yadav was beaten by the Security personnel. The said writings were given by Sri L. K. Choudhary as per the dictation of Sri Ghanshyam Mandal and Sri B. P. Choudhary, the concerned workman. This witness has not been at all cross-examined by the concerned workman or his co-workman and his entire evidence is intact without the same being challenged by the concerned workman.

13. The concerned workman has examined one Ramu Bind, D. S. Operator, who has said that on 25-11-86 he was attached to 2nd shift to work as D. S. Operator in Boxcut. At about 11:45 p.m. he got down from the machine and reached M.T.K. Room for handing over the key of the dozer at 12:00 mid-night and having seen the assemblment near M.T.K. Room Shri Chowdhary came there at 1:30 a.m. at the spot. He has said that he does not know anything regarding the incident of that night. Thus, from the evidence of Sri Ramu Bind I find that the presence of the concerned workman at dead hour of the night gate support and his evidence does not falsify the allegation of the management in any score. The concerned workman himself said that

I have already filed reply and he has nothing to say more. But in cross-examination he has admitted his presence although he was not supposed to be there because at that time he had no business to remain there. He has also admitted in his evidence that he had gone there on information that one Lalan Pd. Yadav, Dumper Operator, was assaulted by the Security Personnel, so the workers have called him at Boxcut. He has tried to say that he was simply a mere spectator. But he has not given any reason as to why the management's witnesses have deposed against him. From reappraisal of the evidence on record during the domestic enquiry. I find that the findings of the Enquiry Committee that the concerned workman was leading a mob of about 150 persons who had gheraoed Sri L. K. Choudhary in M.T.K. Room from 11:00 p.m. to 3:00 a.m. who was rescued at the intervention of the Officer-in-Charge of Lalmatia P.S. and Security Officer Sri R.B. Tiwary and Sri B. D. Tiwary, Sr. P.O. It is not disputed that as per the Model Standing Orders applicable to the Coal Mining Industry wilful insubordination or disobedience causing wilful damage to work in progress and to the properly employer, threatening abusing or assaulting any superior co-worker and preaching of or inciting to violate are the serious misconduct according to Para 17(i)-(c), (i) (r) and (t) of the Model Standing Orders. From the materials on record it appears that the mob consisted workers of 2nd shift and 3rd shift and the work had suffered a lot due to gherao of Sri L. K. Choudhary, Jr. Mining Engineer, who is certainly a superior of the concerned workman. Therefore, in my opinion, the management has been able to prove the charges levelled in Chargesheet dated 28-11-86 and any prudent man can arrive at the same conclusion as that of the Enquiry Committee. Therefore, this point is decided accordingly.

14. Point No. (ii):

As already pointed out, the management has served upon the concerned workman the 1st chargesheet by letter No. 746 dated 6-11-1986 in which it was alleged that on 28-10-86 the concerned workman, Sri B. P. Choudhary, was deputed at Lalmatia Workshop to work as Shift Fitter in the 1st shift starting from 6:00 a.m. to 2:00 p.m. After marking his attendance the concerned workman had left the work place without any information to the Authority concerned and remained absent upto 11:30 a.m. as a result of which one dozer remained idle and could not be pressed for its operation and for that he was marked absent. Then on the same day at 4:30 p.m. the concerned workman alongwith Sri Amar Lohar, Sri S. S. Ram and several other workmen of O.C.P. came to Lalmatia Workshop in furious mood and charged Sri H. P. Singh, Junior Executive Trainee (X) in a very disorderly manner and asked as to why he has struck off attendance of the concerned workman. They abused him in filthy language at the top of their voice and threatened him with dire consequences and that they will damage his face and ultimately they gheraoed him till Sri H. P. Singh was forced to mark the concerned workman present for that day. According to Model Standing Orders applicable for Coal Mining Industry under Para 17(i)-(p) leaving work without permission or sufficient reason is a misconduct. Similarly under Para 17(i)-(r) threatening, abusing or assaulting any superior or co-worker is another misconduct and preaching of or inciting to violence is a separate misconduct under Para 17(i)-(t). To this chargesheet the concerned workman has sent a reply which has been marked Annexure W-2 to the written statement of the concerned workman and same has also been filed by the management. In reply the concerned workman took a plea that he has not left the place of work in the 1st shift of 28-10-86 and he was made absent at 9:00 a.m. when he had gone out for attending call of nature and taking breakfast after asking from his co-worker and when he returned back at 9:45 a.m. Mr. S.P. Singh could not see him. Therefore it is false to say that he was absent till 11:30 a.m. He has denied the incident of that day of 4:30 p.m. and has stated that he had not been to Workshop at all at 4:30 p.m. rather, he went there at 5:00 p.m. to know about his attendances and prior to that some people had assembled there and without any pressure Sri Singh had marked him present. The management was not satisfied and constituted an Enquiry Committee to hold departmental enquiry. But according to the management since the concerned workman did not attend the enquiry proceeded ex-parte and after taking evidence of

the management the Enquiry Committee reported that the concerned workman is guilty of the misconduct alleged in this chargesheet. The fairness and propriety of that enquiry was challenged which has been decided as preliminary issue as already stated and the same has been found not to be fair. Therefore, the management has adduced evidence to justify its action to prove the misconduct of the concerned workman. The management has examined Sri H. P. Singh, the victim officer who is MW-2. He has said that on 28-10-86 he was Incharge of Dozer Section. On that day, he found one dozer was sitting idle, hence he searched for Sri B. P. Choudhary, the concerned workman and when he could not be located he was marked absent on that day. Thereafter Sri Choudhary came along with a mob and he was pressurised to mark attendance of Sri B. P. Choudhary and then he marked Sri Choudhary present. He has given a report of the incident in writing. In cross-examination he has said that he had asked from other persons as to where Sri Choudhary had gone when he found absent. Sri B. P. Choudhary, who was on that day on duty in the 1st shift which commenced from 6.00 a.m. and ended at 2.00 p.m. whereas the general shift which commences at 8.00 a.m. and concludes at 5.00 p.m. He has admitted that this is a practice that the workman coming for duty in 1st shift used to get his work in the field and then with the permission of his superior he takes sometime to take his breakfast. But it is not a fact that such breakfast period is allowed to a workman for one hour, rather it was 25 to 30 minutes only. From his cross-examination it is apparent that he had acquired about the concerned workman from other fitters, mechanics who were present in Dozer Sections and also from the Attendance Clerk. He has further said that he could not say when Sri Choudhary returned to duty after he was marked absent and before coming with mob. He has further stated that before they came with a mob Sri Choudhary had come with some of his colleagues to convince his absence. But in the second time he came therewith a mob of about 50 persons between 4.00 p.m. to 5.00 p.m. and amongst the mob one Amar Lohar and S. S. Ram were threatening him even with physical harm although Sri Choudhary had not threatened him with physical harm. Thus, from the evidence of this witness it appears that the concerned workman was found absent in the work place and then he was marked absent. According to the reply of the concerned workman. He was marked absent at 9.00 a.m. and he returned back at 9.45 a.m. but in the written statement the concerned workman has pleaded in Para 9 that on 28-10-86 after working for about five hours from 6.00 a.m. he went to take interval for half-an-hour that too after informing his colleagues on duty for taking rest, refreshment and taking water etc. Thus, in the written statement he has taken a plea that he had gone to take rest at about 11.00 a.m. for half-an-hour that means he returned to duty at about 11.30 a.m. but in his previous reply the concerned workman had taken altogether a different plea and in that reply he has admitted that he was absent from 9.00 a.m. to 9.45 a.m. Thereafter he was present and it is false to say that he was absent till 11.30 a.m. Both the pleas are contradictory to each other and speak a volume against the concerned workman. The management has examined another witness—MW-3 on merit who is Sri Banshi Dhar Tiwary who has said that on 28-10-86 he was working as Senior Personnel Officer at Raimahal Project and on that day he was told by some of the officials that some workmen who were not found on duty were marked absent but after that the workman had gheraoed Sri H. P. Singh. He was not an eye witness on that occurrence. The concerned workman has examined himself during hearing on merit also. He has admitted that he was on duty in the 1st shift and Sri H. P. Singh, Engineer, was on duty in general shift. Here he has come to say that Sri H. P. Singh was not his Incharge, rather Sri Manoj Jha was his Incharge. But this is altogether a fresh plea of the concerned workman which has not been mentioned either in the reply to the chargesheet or in the written statement filed in this reference case. In his evidence he has come to say that at about 9.00 a.m. he went for breakfast after informing his colleagues, but he has not said when he returned back to his duty. No time has been mentioned by him. In the written statement in Para 9 he has taken a plea that he has gone out for rest after working about five hours from 6.00 p.m. i.e. at about 11.00 a.m. and returned after half-an-hour i.e. at about 11.30 a.m. Thus, on own saving of the concerned workman it is apparent that he was not on duty from 9.00 a.m. to 11.30 a.m. Therefore, the allegation of his

absence from duty gets support from the materials available on record and it is well-established. He has not examined Sri Manoj Kumar Jha nor any prayer has been made to examine Sri Manoj Kumar Jha whom he says that he was his Incharge to prove that actually he had left to work place with due permission from Sri Manoj Kumar Jha who was his Incharge. The concerned workman has examined one Bangali Singh who has come to say that the concerned workman had told him at 9.00 a.m. that he is going to take breakfast and requested him to tell any officer who might enquire about him. He has further come to say that 20 to 35 minutes after that Sri H. P. Singh, Engineer, enquired about Sri Choudhary because some defect had cropped up to a dozer. He told him that Sri B. P. Choudhary had gone to take breakfast sometime past. He has admitted in cross-examination that Sri H.P. Singh was Incharge of that Section on that day. He has also admitted that usually a workman like fitter takes breakfast at 9.00 a.m. after taking permission from the Incharge Engineer. He has come to further say that he came to know about crossing of attendance of Sri Choudhary at about 10.00 a.m. or 11.00 a.m. The concerned workman has examined another witness, Sri Panchanam Mahato as WW-4 during hearing on merit who has given altogether a different version and according to him the concerned workman, Sri B.P. Choudhary had gone to take breakfast between 8.30 p.m. to 8.45 p.m. (wrongly typed as p.m., it would be a.m.) and during that period the Engineer, Sri H. Singh came there and enquired about Sri Choudhary. He has said that Sri H.P. Choudhary was enquiring about Sri Choudhary at about 8.30 a.m. Thus, the evidence of defence witnesses regarding the time of absence from duty as stated by Bangali Singh, WW-3 and Panchanam Mahato, WW-4 is quite inconsistent and their evidence does not inspire any confidence. Besides their own plea of the concerned workman regarding his period of absence is vacillating and he has given altogether different type of his evidence at different stages. That also goes to show that actually the concerned workman was absenting without taking permission from his superior.

15. Regarding the gherao by the mob of about 50 persons on that day to press Sri H. P. Singh to mark the concerned workman present has been fully supported by the Victim Officer, Sri H. P. Singh and there is nothing in his cross-examination to disbelieve his testimony. It is apparent from his evidence that the mob was violent and they were threatening him even with physical harm and after due pressure they got the concerned workman marked present. The presence of the concerned workman at the time of gherao has been admitted by harm in his evidence as well his defence witnesses although according to them he had reached thereafter the mob had assembled there and thereby the concerned workman had wanted to convince that actually he was not concerned with the gherao of Sri H. P. Singh on that day. It is curiously enough that the concerned workman was aggrieved because of marking him absent by Sri H. P. Singh and therefore any un-concerned person will not go there unless and until other persons are informed by the aggrieved person. It cannot be believed that without information of the concerned workman other workmen had gone there to pressurise Sri H. P. Singh for marking Sri B. P. Choudhary present. From the evidence of Sri H. P. Singh it is clearly established that he was pressurised by the mob and the mob had threatened him, gheraoed him and the concerned workman, Sri B. P. Choudhary was present in that mob. Therefore, I find the management has been able to prove all the charges levelled in the chargesheet dated 6-11-86. Accordingly, I find that the concerned workman is guilty of the misconduct as defined in various provisions of Para 17(i) of the Model Standing Orders applicable to the Coal Industry.

16. Point No. (iii) :

Now, the question is whether on the basis of proved misconduct against the concerned workman the action of the management in dismissing the concerned workman and not reinstating him with back wages is justified. From the materials available on record I find that the concerned workman was found guilty of misconduct by not remaining present in the place of his working and he has also been found guilty of preaching violence, abusing his superior or co-worker, pressing them and intimidating them and his action is detrimental to the observance of a discipline in any concern. Due

to such attitude of the workmen the Public Sector Undertaking is running in loss and going towards bad to worst and therefore, in my opinion, the management cannot be forced to reinstate such workman with full back wages and therefore the action of the management for not reinstating him with full back wages is properly justified. However, it appears that on a mercy petition of the concerned workman he was offered reinstatement with transfer to other mining area of the management and he was asked to execute an agreement in Form H to which the concerned workman did not agree and he has raised this dispute. Since the management has removed the concerned workman on the basis of proved misconduct and it is apparent that its action is fully justified, but since the management has offered him for reinstatement with transfer provided he executes an agreement in Form-H, therefore, in my opinion, the concerned workman should be given an opportunity to mend himself and behave in proper manner in future and therefore he is ordered to be reinstated without any back wages and consequential benefits with transfer as offered by the management by its letter No. ECL/RJML/GM/PNIR/37/1372 dated 12/13-12-1988 on conditions laid down therein.

17. Accordingly, I render this award for reinstatement of the concerned workman without back wages and consequential benefits in terms and conditions of the management's office letter No. ECL/RJML/GM/PNIR/37/1372 dated 12/13-12-1988 within three months from the date of publication of the award.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 9 सितम्बर, 1999

का.सं. 2827.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उद्योग, सी. एल. के प्रबंधन के संबंध नियोक्तों और उनके कर्मचारों के बीच, अनुवाद में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-9-99 को प्राप्त हुआ था।

[फाईल सं. एन-22012/216/97-आई आर (सी-II)]

वी. एस. ए. एस. पी. राजू, डेस्क अधिकारी

New Delhi, the 9th September, 1999

S.O. 2827.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of W.C.L. and their workman, which was received by the Central Government on the 2-9-1999.

[No. L-22012/216/97-IR(C-II)]

V. S. A. S. P. RAJU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/59 of 1998

Employers in relation to the Management of Sub Area Manager.

2754 G1/99—15.

W.C.L., Ballarpur Colliery,
3 & 4 Pit,
P.O. Ballarpur,
Distt. Chandrapur
Ballarpur.

AND

Their Workman.

Secretary,
Pachimi Koyla Mazdoor Union,
Ballarpur,
Distt. Chandrapur (MS),
Ballarpur.

APPEARANCES :

For the Employer : Mr. B. N. Prasad,
Advocate.

For the Workmen : Mr. Bhanudas Rebbawal,
Representative.

Mumbai, dated 5th August, 1999

AWARD—PART-I

The Government of India, Ministry of Labour, by its Order No. L-22012/216/97/IR(CM-II), dtd. 5-5-1998, had referred to the following Industrial Dispute for adjudication :

"Whether the action of the management of M/s. W.C.L., Ballarpur Colliery in terminating the services of Shri Ganpat Komaraya w.e.f. 12-10-96 is legal and justified? If not, to what relief is the workman concerned entitled?"

2. From the claim statement (Ex-4); Written Statement (Ex-7); Rejoinder (Ex-10) and from the documents on record the facts which are not in dispute can be summarised as follows :—

That, one Shri Morpaka Yellaiya was appointed as a Trammer-cum-Loader at Ghugust Colliery of the employers in the year 1957. Since he had become medically unfit his services were terminated on 14-1-80;

That, at the time of termination of his services, in the year 1980, neither he nor any other person of his family made any application for providing employment to any eligible dependant under Departments Employment Scheme of the National Coal Wages Agreement No. II, which was then applicable;

That, in the year 1991, one Smt. Shobha Ganpat Komariya of Ghugus Colliery applied to the Sub Area Manager, Ghugus Sub Area for providing employment to her husband, namely, Shri Ganpat Komariya in place of her father, whose services had been terminated on medical grounds. Obviously this application was made under the relevant provisions

of the National Coal Wage Agreement No. II;

That, while making the application she stated inter alia that she was the only daughter of her father and at the time of his termination she was 12 years of age;

That, along with the application, certificate from the Gram Panchayat, Ghugus, giving family and marriage status of Shri Ganpat Komariya and affidavit from Morpaka Yellaiya were also filed. In other words, apart from Smt. Shobha, Ganpat Komariya and Morpaka Yellaiya were actively involved in seeking the employment;

That, acting in good faith, the Sub Area Manager, Ghugus Sub Area processed the case and forwarded it to the competent authority for obtaining sanction/approval;

That, while according approval, it was conveyed that Shri Ganpat Komariya be employed at Ballarpur Colliery of the employers as a Loader. This was done keeping in view the man power requirement;

That, accordingly Shri Ganpat Komariya was appointed as a Loader at Ballarpur Colliery vide letter of appointment No. WCL/BA/CGM/PER/1478 dt. 13-5-93 as the Son-in-law of Morpaka Yellaiya;

3. Ganpat Komariya, the workman was charge-sheeted by a chargesheet dtd. 29-11-93 for serious misconduct, under clause 26.1, 26.9, 26.43 of Mines Regulations. A domestic inquiry was conducted in which workman participated. The inquiry officer submitted his report finding workman guilty of the charges levelled against him. The disciplinary authority accepted the report and terminated the services of the workman w.e.f. 12-10-96.

4. The workman pleaded that the domestic inquiry which was held against him was against the Principles of Natural Justice. The Inquiry officer committed irregularities in conducting the inquiry. He was biased and prejudiced. The workman was not given full opportunity to defend his case. He also contended that the inquiry report was arbitrary, unjust and illegal. He therefore prayed that he may be reinstated in service in continuity with full back wages.

5. The management resisted the claim by their Written Statement (Ex-7). It denied the contentions taken by the workman. It is alleged that the domestic inquiry which was conducted against the workman was as per the Principles of Natural Justice and the findings of the Inquiry officer are based on the evidence before him. It is subjected that the workman is not entitled to any reliefs. The workman filed a rejoinder at Exhibit-10 and reiterated

the contentions taken by him his claim statement. He denied the contentions taken by the management in the Written Statement and prayed for the reliefs which he claimed in the claim statement.

6. The issues are framed at Exhibit-11. First two issues are framed as preliminary issues. The issues and my findings there on are as follows :—

Issues	Findings
1. Whether the domestic inquiry which was held against the workman was against the Principles of Natural Justice ?	No.
2. Whether the findings of the inquiry officer are perverse ?	No.

REASONS

7. The workman filed purshis (Ex-12) that he does not want to lead any oral evidence in the matter. Prajapati (Ex-14) who was the inquiry officer lead oral evidence on behalf of the management. The parties relied upon the documents which are filed along with Exhibit-3.

8. The workman was given a chargesheet (Ex-9/1) contending that a complaint was received against him on the basis of the information given by him in Form F. Under the payment of Gratuity Act, 1972 where his wife Shoba was shown to be 21 years of age on 15-1-73. His father-in-law Morpaka was declared unfit on medical ground in the year 1980. Shoba's age must have been 8. So there cannot be marriage to a child. It is therefore the workman cannot be a son-in-law of Morpaka. So also it is not established that when Morpaka was declared unfit, the workman was depended upon him. It is also alleged that on the basis of School Leaving certificate in 1980 his age was 15 and he cannot marry. It is therefore, he cannot be dependant of Morpaka on that date. It also reveals from the record Hunmant Yellaiya, son of Morpaka was offered an employment as dependant, therefore, the claim of the workman on that ground also not feasible. For all these reasons he had committed a major misconduct contemplated under clauses 26.1, 26.9 and 26.43 of the Mines Regulations.

9. Prajapati (Ex-14) affirmed that the domestic inquiry which was conducted against the workman was as per the Principles of Natural Justice. It is not in dispute that a chargesheet was received by the workman. He understood its contents and pleaded not guilty to the charges. The inquiry was conducted in Hindi. The workman Komariya availed the services of the co-worker. The copies of the proceedings were supplied to them. The management witness Ramdev Rao was examined in the presence of the workman who was cross examined by the co-worker of the workman. The workman

was also allowed to put his defence evidence. He examined himself and produced documents which were taken on record. He affirmed that the written arguments were allowed to be filed by the parties in view of the diction of the superior. Again the workman was allowed to lead evidence. Again he examined one more witness and they filed the written arguments. On the basis of the testimony of Prajapati, it is tried to argue on behalf of the management that the inquiry which was held against the workman was as per the Principles of Natural Justice. I find merit in it.

10. The Learned Advocate for the workman challenged the inquiry contending that Ramdevrao who was presenting officer, was a witness of the management and he produced documents on the record. That cannot be allowed. I am not inclined to accept this position. It is because a person who knows the facts of the case can be a witness. No law or rules are shown to me by which it can be said that the Presenting Officer cannot be a witness. There is a difference between a domestic inquiry, criminal proceedings and a civil litigation. The proof required in later two matters are quite different than in a domestic inquiry.

11. Ramdeo Rao was examined on 10-4-99. Before that there were three documents which were filed by the management and were on the record. After his examination that representative produced 23 documents on record. Prajapati affirmed that the copies of those documents were given to workman on 7-8-96. But from the inquiry proceedings it appears that there is no endorsement to that effect. There is no reason for Prajapati to depose falsely. No such circumstances have come on record that the copies of documents were not supplied to the workman on the contrary from the cross examination which had taken place on 7-8-96 it reveals that it refers to Exhibit M-4. These were the documents which were produced on 6-8-98 along with other documents. I, therefore, find that the copies of the documents must have been supplied to the workman. Furthermore, it has to be shown by the workman that non supply of those documents was prejudicial to him. But nothing to that effect is on the record.

12. Prajapati had affirmed that an opportunity was given to the workman to cross examine on these documents. From the inquiry proceedings it reveals that it is mentioned that after receiving the copies of the documents further enquiry will be made. There are endorsements to the effect that the worker and co-worker had informed that they do not want any further clarifications (Spashtikaran). Prajapati admits that there is a difference between clarification and cross examination. On the basis it is tried to argue on behalf of the workman that no opportunity was given for cross examination in respect of the document.

13. No doubt the word Spashtikaran|clarification was used in the inquiry proceedings. I find that it is used by the inquiry officer and understood by the worker and co-worker for cross examination. Because no clarification was required to be given and cross examination was required to be made if the workman wanted to do so. I, therefore find that full opportunity was given by the inquiry officer to the workman to cross examine in respect of these documents.

14. It is pertinent to note that the inquiry was required to be reopened in view of the submissions made by the workman in the arguments. He was allowed to lead evidence again. If really he wanted to cross examine in respect of these documents, then he would have done so that time. The management's representative who produced the document was available but he had not done so. I therefore find that this is an after thought pleading.

15. There is also a contention that the copy of the complaint which is mentioned in the charge-sheet was not given. Admittedly it was not given. But it is rightly argued by management that the details of the complaint are mentioned in the charge-sheet itself. No prejudice is caused for non supply of the complaint. For the above said reason I find that the inquiry which was held against the workman was as per the Principles of Natural Justice.

16. It is argued on behalf of the workman that the findings of the inquiry officer goes to show that the inquiry officer had gone much away from the fact of marriage but had settled himself as the authority to decide the legality of the marriage at between the employee and daughter of Morapka Yallappa. It is argued that the findings are not legal but perverse.

17. Proceedings of the inquiry are along with Exhibit-9/6. The findings are at Exhibit-9/8. After going through the inquiry report, I find that it is well reasoned and based on the evidence before him. He had drawn his conclusions referring to the document and oral evidence before him. I do not find any perversity in the same.

18. It is well settled position of the law, the findings of the inquiry officer can be said to be perverse only if it is shown that they are not on the basis of material on record and no reasonable person could have arrived at such a finding and they are on no Evidence. After going through the written argument of workman which is at Exhibit-24 it cannot be demonstrated how the findings are perverse or they are without any evidence before the inquiry officer.

19. It is tried to argue on behalf of the workman that the inquiry officer had no power to declare that the man is not in existence and, therefore at that relevant time the workman was not

dependant and the information which was supplied was not correct are without any jurisdiction. From the evidence it reveals that at the first instance the alleged marriage had taken place when Shoba was 8 years old and the workman was 15 years old. It is, therefore, the inquiry officer came to the conclusion that there was no marriage at all. It can be accepted that he cannot declare it void but the fact still remains that the marriage is void abinitio. On its basis in a domestic inquiry the conclusion which are drawn by the inquiry officer that the marriage was not in existence at all at that particular time cannot be said to be without any evidence. Under such circumstances I find that the report is based on the evidence and the findings are not perverse. In the result I record my findings on the issues accordingly and pass the following order :—

ORDER

The domestic inquiry which was held against the workman was as per the Principles of Natural Justice.

The findings of the inquiry officer are not perverse.

S. B. PANSE, Presiding Officer

नई दिल्ली, 9 सितम्बर, 1999]

का.आ. 2828:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चित्रदुर्गा ग्रामीण बैंक के प्रबन्धन के संबंध में निदेशकों और उनके कर्मचारियों के बीच, अनुबंध से निविदा औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-वेबर-कोर्ट न. 2, मुम्बई, के पंचाट को प्रकाशन करती है, जो केन्द्रीय सरकार को 08-09-1999 को प्राप्त हुआ था।

[नं. एल-12011/44/89-आई. आर. (B-I)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 9th September, 1999

S.O. 2828.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Chitradurga Gramin Bank and their workman, which was received by the Central Government on 08-09-1999.

[No. L-12011/44/89-IR(B-I)]

G. ROY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, BANGALORE

Dated 3rd September, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 69/89

I PARTY

Shri H. S. Krishnamurthy,
C/o Anant P. Savadi,
Advocate Room No. 8,
II Block,
III Floor,
Super Market,
Hubli-580020.

II PARTY

The Chairman,
Chitradurga Gramin Bank,
Shri Kudli Sringeri
Mahasamsthanam Buildings,
P.B. No. 70,
Jogimutt Road,
Chitradurga-577501.

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-Section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12011/44/89-IR(B-I) dated 27-09-1989 for adjudication on the following schedule.

SCHEDULE

"Whether the action taken by the management of Chitradurga Gramin Bank in terminating the services of Shri H. S. Krishnamurthy, a probationary Junior Clerk w.e.f. 20-1-86 is justified? If not to what relief Shri H. S. Krishnamurthy is entitled to?"

2. This reference is received on 3-10-1989, the I party filed his Claim Statement on 1-5-1990, the II party filed their Counter Statement on 21-11-1990. This Tribunal by its Order dated 21-11-1990, after considering the pleadings of parties came to the conclusion that there is no scope to frame separate issues as the point for adjudication is covered by the schedule to the reference.

3. The II party examined the Manager as MW 1 on 15-5-1992. There after the progress of this dispute is nil till another witness for the Management was examined on 11-8-1999. This workman never placed any materials justifying the stand taken by him in his Claim Statement. The reason may be due to unnecessary adjournments taken by the

parties and the lineant attitude shown by this Tribunal. The workman who had all enthusiasm in raising this dispute has virtually crippled and could not attend before this Tribunal to justify his stand. It is most unfortunate.

4. The undisputed facts are, the II party bank is a sponsored bank by Canara Bank which is jointly with the Government of India and Government of Karnataka. The II party adopted service regulations called Chitradurga Gramena Bank (Staff) Service Regulations 1982. The I party was selected for the post of Junior Clerk cum Cashier in the appointment order dated 31-1-1985. The I party worked from 14-2-1985 to 30-3-1985 at Talikatte Branch and from 1-4-1985 to 1-5-1985 at Kittadal Branch. From 2-5-1985 he has remained absent unauthorisedly and never reported for work at any time subsequently. Even a notice has not made any effect to this workman. The II party taking into consideration unsatisfactory work and also the unauthorised absence issued a Memo dated 30-10-1985. The I party did not appear even after receipt of this notice. In this circumstances his service are discharged. However, the II party also followed regulations 10(2) by giving him one month's pay in lieu of the notice.

5. The I party in the Claim Statement not at all placed any material to know what is his case. But he only says that he was a Ex-employee who surprised to note the termination of his services without any charge sheet and without complying the Principle of Natural Justice.

6. He was terminated w.e.f. 20-1-1986. Admittedly this dispute was raised in the year 1989. He never explained in his Claim Statement the reason for raising the Industrial Dispute after a lapse of nearly 3 years.

7. However the management to justify their action examined 2 witnesses as MW 1 and MW 2. The documents Ex. M-1 to M-20 were marked as an Contemporaneous evidence. The documents consisted of Appointment Order, Staff Regulations, Attendance particulars, Issue of Notices and finally the Order of termination dated 29-1-86.

8. The above material on proper appreciation justify the action taken by the II party in dismissing the services of this workman who in the initial stage itself proved to be not worthy of working in a Bank. Having regard to these facts and circumstances the following Order is made.

ORDER

9. The reference is rejected.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 9 सितम्बर, 1999

का.आ. 2829:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोंकण रेलवे कारपोरेशन लिमिटेड (नाथ) के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर-कोर्ट नं. 2, मुम्बई के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-09-1999 को प्राप्त हुआ था।

[सं.प्ल.-41012/223/97-आई.आर. (बी. I)]
जो. राय, डेस्क अधिकारी

New Delhi, the 9th September, 1999

S.O. 2829.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour-Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Konkani Rly. Corpn. Ltd. (North) and the workman, which was received by the Central Government on 8-9-1999.

[No. L-41012/223/97-IR(B-I)]
G. ROY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/66 of 1998

Employers in relation to the management of Chief Engineer (North)

Kokan Railway Corporation Ltd.,
Lanjekar Compound,
Phansi Baug, Udyam Nagar,
Ratnagiri-415612.

AND

Their Workmen

Shri Suhas Dharamu Machiwale,
At Post, Nachane Supalwadi,
Tal. & Distt. Ratnagiri.

APPEARANCES :

For the Employer : Mr. R. S. Samant, Advocate.

For the Workmen : Mr. Jaiprakash Sawant,
Advocate.

Mumbai, dated 6th August, 1999

AWARD

The Government of India, Ministry of Labour
by its order No. L-41012/223/97-IR(B-I) dtd.

19-5-98 had referred to the following Industrial Dispute for adjudication :

“Whether the action of the Chief Engineer (North) Konkan Railway Corporation, Ratnagiri in terminating the service of Shri Suhas Dharmu Machiwale, Line Peon w.e.f. 13-1-94 is legal and justified. If not, to what relief the workman is entitled to ?”

2. Suhas Dharmu Machiwale (herein after referred to as a workman) was employed by the Chief Engineer (North) Konkan Railway Corporation Ltd., Ratnagiri (herein after referred as the management) as Line Peon w.e.f. 13-1-93. He was in continuous employment till he was terminated on 13-1-94. Initially he was paid Rs. 30/- per day. It is averred that from 13-7-93 he was paid at the rate of Rs. 1,440/- per month. It is pleaded that he was in continuous service and was terminated without following due process of law. There was no departmental inquiry nor any chargesheet was issued to him. It is averred that no compensation was paid to him while terminating the service. It is submitted that under such circumstances the termination is illegal. It is prayed that he may be reinstated in service in continuity with full back wages.

3. The management resisted the claim by the written statement (Exhibit-8). It is averred that the workman is governed by the contract letters, office orders and rules and regulations of the Corporation/management. It is submitted that one months notice was given to him as contemplated under the contract labour. It is averred that the termination of the workman does not amount to retrenchment. Therefore the provisions of the retrenchment of the Industrial Disputes Act of 1947 are not applicable to him. The reference suffers from laches and the workman is not entitled to any reliefs.

4. The issues are framed at Exhibit-11. The issues and my findings there on are as follows :—

Issues	Findings
1. Whether it is proved that Suhas Machiwale was in continuous employment of Konkan Railway Corpn. as contemplated under the Industrial Disputes Act of 1947 ?	Yes
2. Whether the termination of Machiwale amounts to retrenchment ?	Yes
3. If so, whether there is compliance of provisions of retrenchment of I.D. Act ?	No
4. Whether the reference suffers from laches ?	No

REASONS

5. Suhas Dharmu Machiwale (Exhibit-14) the workman affirmed that he was appointed by the management on 13-1-93 (appointment letter, Exhibit-15). He was continuously serving the management till his termination i.e. 13-1-94. This is corroborated by Smriti Verma (Exhibit-22) Deputy Finance Advisor and Deputy Accounts Officer of the management. Office Order No. 9 dtd. 13-1-93 (Ex-16) speaks that the workman was appointed as a Line Peon w.e.f. 13-1-93. By an office order dtd. 1-9-93 (Ex-17). He was paid at the rate of Rs. 1,440/- from 13-7-93. In that order it is mentioned that their continuation in service beyond the date shown in columns will be subject to their performance during the period and subject to the availability of the vacancies. From the record and from the testimony of workman and the management witnesses it is very clear that the workman served continuously for more than 240 days in a year as contemplated under section 25-B of the Act of 1948. On the basis of the appointment letter (Exhibit-15) it is argued on behalf of the management that the appointment is purely for a specific period commencing from 13-1-93 and expiring on 12-4-93. There is no dispute that the terms and conditions in the appointment letter were accepted by the workman when he joined the services.

6. Mr. Savant the Learned Advocate for the workman argued that the workman is to be considered as an employee of Konkan Railway as per the definition of the word Employee in Konkan Railway Corpn. Ltd. discipline and appeal rules. It defines employee means a person in the employment undertaking other than the casual, work charge or contingent staff but includes the person on deputation to the corporation. The workman herein is not a casual since he has been appointed in the pay scale of 750-940 which is the pay scale of the permanent employee of Grade D in KRCL. The appointment letters/office orders of the management which I have already referred above contemplates that the worker is entitled to other allowances admissible to contractual appointees under the Rules of the Corporation. Further the workman will be governed by all other service conditions as per the extend Rules/Instruction of the corporation. It is therefore, he is to be considered to be an employee of the management. I find merit in it. It is not because of this but it can be also seen that he is given the yearly increment and he is also member of the Provident Fund of the K.R.C.L. His pay scale is of that of Grade D employee.

It is tried to argue on behalf of the management that as per the contract letter seven days notice pay in lieu of notice on either side was permissible. The termination notice dtd. 7-1-94 (Exhibit-18) was given to the workman and the notice

is of one month. It is submitted that as the notice is in compliant with the appointment letter, the termination cannot be said to be invalid. Along-with the notice a cheque was given to the workman.

8. The KRCL discipline and appeal rules which gives a list of misconduct in Rule No. 5 does not say that 'not satisfactory' is misconduct. Rule 10(1) of the said rules stipulates that no order of imposing any of the major penalty specified in clause f, g, h & i of the Rule 8 shall be made except after an inquiry is held in accordance with this rule. Terminating an employee from the service is a major penalty as per the Rule 8(h). Admittedly in the present case there was no inquiry.

9. Mr. Samant, the Learned Advocate for the management argued that the appointment of a workman is an ad hoc appointment and is for a limited purpose. It comes to an end after the expiry of the period. To substantiate this contention he placed reliance on Director Institute of Management Development Vs. Pushpa Srivastava 1993 1 LLJ19. That was a case wherein Pushpa Shrivastava was appointed on ad hoc basis after some extension of time. She send a resignation which was accepted. Then she again made a request for fresh appointment. In that case there was a demand of regularisation. Herein the present case, it is to be seen whether the termination is proper or not. The case of regularisation is outside the scope of the reference. The workman in this case has challenged the termination on the basis of the provision of the Industrial Disputes Act of 1947. From the usual of the termination letter it reveals that the services of the workman were not said to be terminated due to influx of time but it is specifically mentioned in the letter that his services were not satisfactory and he remained absent. Mr. Samant the Learned Advocate of the management also relied upon UTI Vs. Bijay Kumar 1993 1 LLJ 240. That was a case where workman was terminated when he was in probation. In the reported case the impugned order has not shown anything which would amount to stigma. In the present case the impugned order specifically states that the services are not satisfactory. It is a stigma. Furthermore the workman was not on probation therefore the ratio in that said authority was no application.

10. Mr. Sawant, the Learned Advocate for the workman argued that the workman is in continuous service. The Konkan Railway being a instrumentality of the Government on employee of the same cannot be terminated on the ground that the workman herein is bound by contract which is a clause i.e. binding for a specific period. To sub-

stantiate this he placed reliance on Modern Food Industries Ltd. Vs. M.D. Juvekar 1988 (II) LLJ 534. That was a case wherein Their Lordship observed that if a contract or a clause of a contract is a result of the weaker bargaining power of the employee who being jobless has no option but to accept the terms on which the job is offered, such a contract or a clause in the contract can only be regarded as unreasonable, unconcernable, unfair and lacking in nullifying and therefore opposed to public policy within the meaning of section 23 of the Contract Act. This ruling supports the case of the workman. The action of the Konkan Railway who has entered into an unreasonable and unfair contract cannot be approved. From the evidence of the management witness it reveals that the nature of the work which the workman was doing is still in existence. Therefore there is no justification in terminating the service of the workman.

11. In Madhya Pradesh Bank Karmachari Sangh Vs. Syndicate Bank 1996 LAB I.C. 1161 Their Lordships observed 'The provision of section 2(oo) (bb) are to be construed benevolently in favour of the workman. They are not to be interpreted in the manner which may stifle the main provision. If the workman is allowed to continue in service by making periodic appointments from time to time then it can be said that the case would not fall under section 2(oo)(bb). If the workman continues in service, the non renewal of the contract can be deemed as malafide and it may amount to fraud on statute. There would be wrong presumption of non-applicability of section 2(oo)(bb) where the work is of continuous nature and there is nothing on record that the work for which a workman has been appointed had come to an end.'

12. Smriti Verma in her cross-examination deposed that the job of line peon is still there but the number is reduced in view of the reduction of the officers. But she does not know how many peons were there and how many peons are in existence today. Admittedly there was no inquiry before the issuing the notices of termination. The work of line peon is available there. Suhas Machiwale admits to have received the cheque as mentioned in the notice that is one month's pay. But there is no payment of retrenchment compensation qualifying to 15 days average pay for every completed year of continuous service or any part thereof in case of six months in section 25F (b) of the Industrial Disputes Act of 1947. In fact the case of the management is that it is not a retrenchment at all and therefore there is no question of payment of any benefits of retrenchment compensation as contemplated under the Act.

13. Suhas Dharmu Machiwale in the cross-examination admits that he gets Rs. 200 to 300 per month. In fact after coming to the conclusion

that the workman is entitled to reinstatement it is to be seen that whether he is entitled to full back wages. As he admits he received Rs. 300/- per month this amount is to be deducted from the back wages which he is entitled to. In the result I record my findings on the issues accordingly and pass the following order :—

ORDER

The action of the management in terminating Suhas Dharmu Machiwale, Line Peon, w.e.f. 13-1-94 is not legal and not justified.

The management is directed to reinstate him in continuity.

The management to pay him back wages from 13-1-94 deducting Rs. 300/- per month.

S. B. PANSE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 1999

का.आ. 2830:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार माउथ मेटल रेलवे, हुबली, के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-वेबर-कोर्ट, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-09-1999 को प्राप्त हुआ था।

[सं. एल-41012/16/92-आई.आर. (डी.यू.)]
जी. रॉय, डेस्क अधिकारी

New Delhi, the 10th September, 1999

S.O. 2830.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of South Central Railway, Hubli and their workman, which was received by the Central Government on 9-9-1999.

[No. L-41012/16/92-IR(DU)]

G. ROY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, BANGALORE

Dated :

PRESENT :

Justice R. Ramakrishna, Presiding Officer,

C. R. No. 10/93

I PARTY :

Smt. Ushabai P. Joshi,
Wife and Legal Heir of late
Shri P. V. Joshi,
Employee of South Central Railway.
Supur Wada, Fort. Hubli-20.

II PARTY :

The Chief Works Manager,
Hubli Work Shop,
South Central Railway, Hubli-20.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-41012/16/92-IR(DU) dated 29-1-93 on the following schedule :

SCHEDULE

"Whether the action of the management of South Central Railway in compulsorily retiring late Shri P. V. Joshi w. e. f. 13-6-1966 was legal and justified ? If not, what relief Late workman and/or his legal heirs are entitled to ?"

2. This reference was received on 8-2-93. From the inception of this case this tribunal was not able to serve the notice to the first party. The first party also not appeared after she received the reference sent by the Government to her directly. The second party is represented by a learned advocate. We have again sent a notice under RPAD which also returned unserved. Shri MVS, the learned advocate for the second party has submitted that the first party died on 20-11-97.

3. Since the first party died and no efforts are made to bring her legal representatives to prosecute this dispute, no progress can be made.

ORDER

This dispute is rejected as abated.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 10 सितम्बर, 1999

का.आ. 2831:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मर्वन रेलवे, मद्रास के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, तमिलनाडु, चेन्नई, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-09-1999 को प्राप्त हुआ था।

[सं. एल-41012/111/91-आई.आर. (डी.यू.)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 10th September, 1999

AWARD

This reference has been made for adjudication of the following issue :

"Whether the action of the management of Southern Railway in removing from service Shri M. Muthurangam, Fitter, with effect from 7-5-1979 is legal and justified ? If not, to what relief the workman is entitled to ?

2. The main averments found in the claim statement filed by the Petitioner are as follows :

The petitioner entered service under the respondent as Khalasi on 24-4-1957 and was promoted as Fitter w.e.f. 13-11-73 and was drawing a salary of Rs. 1200 p.m. He was issued with a charge sheet dt. 30-1-78 on an allegation that on 11-7-77 he was caught red handed while trying to smuggle a gun metal blank screw box weighing about 8.5 kgs. concealed between his legs by keeping the same in between his loin cloth, and a confession statement was obtained from him under duress, intimidation and coercion. He was taken to Railway Protection Force office and was shown certain materials wrapped in a dungry cloth lying on the table and foisted a case on him as if the petitioner attempted to remove the material in a stealthy manner, by concealing it. The statement was written out by Railway Protection Force, S.I. in which the petitioner was forced to sign. The petitioner was also threatened that if he refused to sign the statement, on that ground alone he will be arrested by the Police and detained in jail. No independent witness/co-worker have signed the said statement though many witnesses were available at that time. Later on the said statement has been attested by two of the petitioner's superiors who were highly enmical towards the petitioner for a long time. No Mahazar was prepared and no attestation has been made by any independent witness. In the enquiry, the petitioner was shown a brass box which did not have any railway markings. A force of enquiry was conducted and the petitioner was removed from service on and from 3-5-79. Thereafter the petitioner preferred an appeal to the Carriage & Wagon Engineer and the said Appellate Authority confirmed the punishment imposed by the Disciplinary Authority. Thereafter the petitioner preferred a revision petition to the General Manager and the General Manager has set aside penalty of removal from the service on the ground that the Disciplinary authority has not passed a speaking order. The petitioner was directed to be reinstated without prejudice to the disciplinary proceedings which may be taken against the petitioner from the stage of the consideration of the report of the Enquiry Officer. The petitioner was reinstated in service as Fitter w.e.f. 23-4-80 on the basis of the order passed by the Railway Authority. Thereafter a fresh enquiry was conducted against the petitioner

[No. L-41012/111/91-IR(DU)]

G. ROY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NODU, CHENNAI

Friday, the 4th day of June, 1999

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L.,
Industrial Tribunal.

Industrial Dispute No. 4/1993

(In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the management of Southern Railway, Park Town, Madras-3.)

BETWEEN :

Shri M. Muthurangam,
C/o Shri T. Fenn Walter,
No. 161, Thambu Chetty Street,
Madras-1.

AND

The General Manager,
Mill Writ Shop Carriage Works,
Southern Railway, Park Town,
Madras-3.

REFERENCE :

Order No. 41012/111/91-IR(DU) dated
28-12-92, Ministry of Labour, Govern-
ment of India, New Delhi.

This dispute coming on for final hearing on Thursday, the 22nd day of April, 1999, upon perusing the reference, claim and counter statement and all other material papers on record and upon hearing the arguments of Tvl. T. Fenn Walter and W. Fredric Castro, authorised representatives for the workman and of Thiru G. Kalyansundaram, advocate appearing for the management, and this dispute having stood over till this day for consideration, this Tribunal made the following

and the petitioner has been once again removed from the service. As to under what provision of law the second enquiry was ordered and conducted against the petitioner was not known. It is also not known as to how the enquiry officer came to the conclusion that the petitioner was guilty of the charge alleged against him. The petitioner was not given any opportunity to make his representations against the findings of the Enquiry Officer. The findings of the Enquiry officer was not furnished to the petitioner and the same is contrary to the law of the land. The charge sheet has been issued by an incompetent person. The enquiry has been ordered and conducted by an incompetent person and the findings are totally perverse. The punishing authority has followed the findings of the Enquiry Officer without applying his mind. The charge sheet is totally vague and ambiguous. The petitioner was not paid any subsistence allowance in accordance with law which renders the entire enquiry illegal. The punishment has been imposed by a person without any competence authority or powers to do so. The termination of the petitioner from service is in violation of article 14, 16 and 311 of the Constitution of India. His termination from service is in contravention of the discipline and appeal rules and in violation of principles of natural justice. The enquiry officer has deeply cross-examined the petitioner with a view to pin him the charges. The termination of the petitioner from service is unjust, improper and illegal. The petitioner prays to pass an award directing the respondent management to reinstate the petitioner in service with backwages, continuity of service and other attendant benefits.

3. The main averments found in the counter statement filed by the respondent are as follows :

The petitioner while working as a Fitter in Carriage Works/Perambur was apprehended by R.P.F. Rakshak for unlawful possession of Railway property viz., one Gun metal blank for screw box weighing about 8.5 kgs. concealed in between his legs, covered in a dungry cloth, duly supporting the material by an extra chord made of waste cotton. while he was trying to get out of the Carriage works through the main gate at about 15.30 hrs. on 11-2-77. A voluntary confession statement of the petitioner was recorded and a mahajar was also prepared. The charge sheet was issued by Dy. CME/CW/PER. On 30-1-78 for Major Penalty for unlawful possession of Rly. property. A D.A.R. enquiry was conducted and all opportunities were given to the petitioner to defend his case. The enquiry officer found that the charges were proved. A copy of the report was given to the petitioner and penalty advice was issued to him. He was removed from service w.e.f. 7-5-79. His appeal to the Appellate Authority was also turned down. He made a Revision petition to the G.M. who has set aside the Order of removal on technical grounds without prejudice to the fresh disciplinary proceedings initiated against the petitioner. As per the

orders of the G.M. and the intervening period was held with duty with pay the petitioner was reinstated in service w.e.f. 23-4-80 and a fresh disciplinary proceedings were initiated and the charge was proved. The petitioner was finally removed from service on 19-4-82. Again an appeal was made to the Appellate authority and a revision petition to the G.M. also made and the same were turned down, as the offence committed by the petitioner was of a serious nature involving moral turpitude. A Civil Suit in the City Civil Court Madras in O.S. No. 7177/84 was filed by the petitioner, which was transferred to CAT/Madras on TA 520/86 and the same was dismissed on 26-9-80 on merits. The termination of the services of the petitioner was justified as he had committed a serious offence involving moral turpitude and he was not a fit person to be retained in service. The petition is misconceived and devoid of merits. The respondent prays to dismiss the claim of the petitioner.

4. In the reply statement filed by the petitioner it is mentioned as follows :

It is highly impossible for any human being to conceal a gun metal block weighing about 8.5 kgs. covered in a dungry cloth between the legs. In his explanation the petitioner has explained the reasons as to why such an accusation was framed against him. The confession was obtained from the petitioner under duress, coercion and intimidation. Mahazar was not prepared in accordance with law. Findings of the Enquiry officer are totally perverse though the prosecution has not proved any of the charge held against the petitioner. The first removal from service is w.e.f. 7-5-79 was not set aside on technical grounds but on merits. Hence the respondent has no right to conduct another enquiry as if the order of removal dt. 7-7-79 has been set aside on technical grounds. After conducting the enquiry once again petitioner has been removed from service finally on 19-4-82. The petitioner has not been issued with a show cause notice before dismissing him from service. The averment of the respondent that the original suit filed by the petitioner stood transferred to Central Administrative Tribunal that the same was dismissed on merits on 26-4-80 is totally misconceived. The respondent without knowing as to what order has been passed as to how and what circumstances it has been passed has simply come out with this averment just for the sake of filing this counter. In fact the said T.A. 520/86 was withdrawn by the petitioner with liberty to raise industrial dispute and the Hon'ble Tribunal was pleased to pass an order on 26-9-80 permitting the petitioner to withdraw the T.A. with liberty to raise industrial dispute. The counter filed by the respondent has to be rejected.

5. No witness was examined on either side and Ex. M. 1 to M. 20 have been marked on behalf of the respondent by consent.

6. The Point for consideration is : Whether the action of the management of Southern Railway

in removing from service Shri M. Muthurangam, Fitter with effect from 7-5-1979 ? If not, to what relief the workman is entitled to ?”

7. The Point: The petitioner entered the service of the respondent as Khalasi on 24-4-57 and was promoted as Fitter w.e.f. 13-11-73. He was issued with a charge sheet dt. 30-1-78 on an allegation that on 11-1-77 he was caught red handed while trying to smuggle a gun metal blank crew box weighing about 8.5 kgs., concealed between his legs by keeping the same in between his loin cloth. The report of A. Jesuraj on 11-12-77 who detained the petitioner and took him to the RPF inspector is Ex. M. 1. The concession statement given by the petitioner before the Inspector in the presence of two witnesses is Ex. M. 2. A Mahazar for recovery of the gun metal from the petitioner's person is Ex. M. 3. A report of the Inspector about this occurrence is Ex. M. 4 Domestic enquiry was conducted by Th. D. P. Thomas, principal foreman as enquiry officer and four witnesses were examined as management witnesses who were extensively cross-examined by the petitioner. Enquiry proceedings are Ex. M. 5 Enquiry officer's findings are Ex. M. 6 in which the enquiry officer has held that the charge against the petitioner has been held proved. The petitioner was imposed with the punishment of removal from service. The opinion of CWE is Ex. M. 7. The petitioner preferred an appeal dt. 7-6-79 which was dismissed by the Senior Personnel Officer by an Order dt. 31-8-79. The petitioner preferred a revision before the General Manager, and the said revision petition is Ex. M. 9. The remarks offered by the respondent management in the revision petition is Ex. M. 10. The Chairman, Railway Rates Tribunal, has held as follows :

“The disciplinary authority is required to pass a speaking order to indicate that he has gone through the enquiry proceedings and come to the conclusion for reasons recorded. We are not satisfied from the wording of the orders that the disciplinary authority had applied his mind in coming to the conclusion reached. We, however, note that the appellate authority has passed a detailed speaking order for the disposal of the appeal. But this cannot be deemed to rectify the lacuna in the original order of the disciplinary authority.

We are of the opinion that the action on the equity report is not in accordance with what is contemplated in Rule 10 of the Railway Servants (Discipline and Appeal) Rules, 1968 and thus vitiates the enquiry proceedings. We, therefore, recommend to the General Manager that the order of removal from service should be set aside and the disciplinary proceedings contained from the stage of action to be taken on the enquiry report under rule 10.”

Thereafter the petitioner was reinstated in service without prejudice to fresh disciplinary action from the stage of consideration of the Enquiry officer's report by the Disciplinary authority as per Ex. M. 11 order dt. 15-4-80. By Ex. M. 14 Memorandum, the petitioner was reinstated in service w.e.f. 23-4-80. Thereafter the Disciplinary Authority passed a speaking order dt. 10-3-82 with direction to issue show cause notice to the petitioner for removal from service. The said order is Ex. M. 15. The petitioner was issued with Ex. M. 16 show cause notice by giving an opportunity to make representation on the penalty proposed. On 30-3-82 the Disciplinary Authority confirmed the order of imposing the penalty of removal from service and the said order is Ex. M. 17. On 17-4-82, the Disciplinary Authority passed Ex. M. 18 penalty advice and on 3-6-82, the speaking order recorded by the Disciplinary authority was set out in the Ex. M. 20 annexure.

8. The Learned Counsel on the petitioner made an endorsement that they are not challenging the validity and fairness of the domestic enquiry. On behalf of the petitioner it is contended that the charge of theft is not proved in the enquiry and even if it is said to have been proved, the punishment is shockingly disproportionate and therefore, this Tribunal should intervene u/s 11A of the I.D. Act, 1947.

9. In the domestic enquiry the management has examined four witnesses i.e. MW1 Jesuraj, Constable (Rakshak) who stopped the petitioner at the gate and took him to the RPF Inspector. Theiru T. K. Kannan Inspector of RPF has been examined as MW2 and he has spoken about the production of the petitioner in his office on 11-12-77, at about 15.25 hours, his securing two witnesses namely S. Gajarajan, and Sh. S. Balasubramaniam for the search, seizure and recording confession of the petitioner and also about circumstances under which the petitioner confessed his guilt, and recovery of the metal blank screw box weighing about 8.5 kgs. along with dungry cloth, extra loyn and underwear and about Mahazar and also about his report, Thiru Gajarajan, and Balasubramaniam have been examined as MW3 and MW4 who have attested the confession statement and Mahazar and also they have corroborated the evidence of MW2. All the four management witnesses have been extensively cross-examined by the petitioner. But the evidence of all the witnesses have been cogent and clear and the petitioner has not been able to elicit any point that would be helpful to him. Even though the gun metal blank screw box was weighed twice, both times it weighed 8.5 kgs. and for the allegation of the petitioner that initially it was only 4.5 kgs., there was no evidence at all and it was only his wild imagination. The only motive suggested by the petitioner against MW1 Jesuraj that Jesuraj was demanding some stainless steel handles for his bicycle which the petitioner was not able to give

is also unbelievable and there is no motive for MW2 to MW4 to give false evidence against the petitioner. The findings of the Enquiry Officer is proper. Now the present contention of the petitioner is that the Appellate Authority has not passed a speaking order. Infact a perusal of the order of the Appellate Authority would show that the Appellate Authority has applied his mind and passed a speaking order. In 1994 I LLN P 427, Indian Overseas Bank Vs. R. Sathiamoorthy, a Division Bench of the Hon'ble High Court of Madras has held as follows :

"In addition to this, this is a case in which the disciplinary authority recorded findings on each one of the charges on the basis of the findings recorded by the enquiry authority. Sufficient reasons are contained in the order of the enquiring authority. Therefore, it was not necessary for the appellate authority to go into the matter in detail and detail reasons, if such reasons are available in the original order. However, as already pointed out, the Board has gone into the matter in detail. In a case where the reasons are contained in the findings recorded by the enquiry officer and even if the appellate authority does not go into them in detail, the order may not be vitiated as held by the Supreme Court in S. N. Mukherjee Vs. Union of India (1990-I LLN 557). Under these circumstances, we are of the view that the order of the Board did not suffer from any infirmity. Therefore, we see no justification to quash the same".

10. The next contention of the learned Counsel for the petitioner is that the property stolen by the petitioner is worth Rs. 200/-. But the punishment of removal from service is extremely harsh and therefore prays this Tribunal to modify the punishment to get the monetary benefits since the petitioner should have retired in 1989. The offence committed by the petitioner is theft which involves moral turpitude. In the penalty advice itself, it is mentioned that theft committed by the petitioner is one of moral turpitude and removal from service is the proper punishment. The workman has admitted his guilt in Ex. M. 2 confession statement which was retracted during the domestic enquiry. The misconduct committed by the petitioner has been proved in a properly conducted domestic enquiry. When the offence/misconduct committed by the petitioner is one of moral turpitude punishment of removal from service is proper punishment and the same cannot be said to be shockingly disproportionate, and hence this Tribunal cannot intervene u/s 11-A of the I.D. Act, 1947.

In the result, award passed dismissing the claim of the petitioner. No costs.

Dated, this the 4th day of June, 1999.

S. ASHOK KUMAR, Industrial Tribunal

WITNESSES EXAMINED :

For Petitioner : NIL

For Respondent : NIL

DOCUMENTS MARKED

For Worker : NIL

For Respondent/Management :

Ex.M1	11-12-77	Statement of Jeyaraj RK 1303
Ex.M2	11-12-77	Statement of Muthurangan
Ex.M3	11-12-77	Mahazer
Ex.M4	11-12-77	Inspector's report
Ex.M5	3-4-78	Enquiry Proceedings
Ex.M6	19-7-98	Findings of the enquiry officer
Ex.M7	Nil	CWE's opinion
Ex.M8	31-8-79	Communication of CWE's order
Ex.M9	26-10-79	Revision petition to G.M.
Ex.M10	26-10-79	Remarks on revision petition
Ex.M11	15-2-80	Letter from G. M. to Chairman, RRT
Ex.M12	27-3-80	Opinion of the Chairman, RRT
Ex.M13	15-4-80	Re-instatement order
Ex.M14	22-4-80	Re-instatement Memorandum
Ex.M15	10-3-82	Speaking order Dy. CME CW
Ex.M16	10-3-82	Show Cause notice
Ex.M17	20-3-82	Speaking order by CME CW
Ex.M18	17-4-82	Penalty advice
Ex.M19	3-6-82	Removal order
Ex.M20	20-8-83	Rejection of the revision petition.

नई दिल्ली, 09 सितम्बर, 1999

का.आ. 2832:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार कोकण रेलवे कारपोरेशन लिमिटेड, साठय के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कार्य-कारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर-कोर्ट न. 2, मुम्बई, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-09-1999 प्राप्त हुआ था ।

[सं. एल-41012/221/97/-आई.आर. (बी-1)]

जी. रॉय, डैस्क अधिकार

New Delhi, the 9th September, 1999

S.O. 2832.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Konkan Railway Corporation Ltd. (South) and their workman, which was received by the Central Government on 8-9-1999.

[No. L-41012|221|97-IR(B. I)]
G. ROY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, MUMBAI
PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2|64 of 1998

Employers in relation to the Management of Chief
Engineer (South), Konkan Rly. Corpn. Ltd.
Ratnagiri.

Lanjekar Compound,
Phansi Baug Udyam Nagar,
Ratnagiri-415612.

AND

Their Workmen.

Shri Vijay G. Gamarao,
Kumbharkhani Khurd,
Post Dharmni,
Tal : Sangameshwar,
Distt : Ratnagiri.

APPEARANCES :

For the Employer : Mr. R. S. Samant,
Advocate.

For the Workmen : Mr. Jaiprakash Sawant,
Advocate.

Mumbai, dated 6th August, 1999

AWARD

The Government of India, Ministry of Labour by its Order No. L-41012|221|97-IR(B. I), dtd. 19-5-98 had referred to the following Industrial Dispute for adjudication :

“Whether the action of the Chief Engineer (South), Konkan Railway Corporation Ltd., Ratnagiri in terminating the service of Shri Vijay Govind Gamare, Unskilled Labour/Helper w.e.f. 16-7-1994 is legal

and justified ? If not, to what relief the workman is entitled for ?”

2. Vijay Govind Gamare, the workman was employed by Chief Engineer (South), Konkan Railway Corpn. Ltd. Ratnagiri (hereinafter referred to as the management) as unskilled labourer w.e.f. 20-12-90. Initial appointment was for 6 months. Then it was extended by appointment letters from time to time. For the first six months he was paid Rs. 30 per day. For the next six months he was paid Rs. 1200 p.m. on completion of one year service his pay was fixed in the regular pay scale of Rs. 750-940 w.e.f. 20-12-91. There was departmental inquiry against the workman. The management by its notice dtd. 9-6-94 terminated the services of the workman w.e.f. 16-7-94. These are the facts which are not in dispute.

3. The workman in his statement of claim (Ex-7) pleaded that his termination is a re-employment and the management did not comply with the provisions of the Industrial Disputes Act of 1947. It is averred that unfair labour practice was followed by the management. It is averred that his termination is in violation of the provisions made under the Industrial Employment (standing order) Act of 1947.

4. The workman prayed that it may be declared that the action of the management of his termination is illegal and he may be reinstated in service in continuity with full back wages. It is also submitted that he may be given a right of a permanent workman and also be paid compensation for the wrongful termination.

5. The management resisted the claim by their Written Statement (Exhibit-8). It is averred that the workman is governed by the contract letters, office orders and Rules and Regulations of the Corporation/management. It is submitted that the workman was remaining absent without taking proper permission. The superiors warned him on several occasions but there was no improvement. It is therefore one month's notice was given to him as contemplated under the contract labour. It is averred that the termination of the workman does not amount to retrenchment.

6. The management pleaded that when the matter was before the Conciliation Officer, the workman was ready to accept the amount which the Corporation sent by cheque. The management also sent a demand draft towards his provident fund amount. The workman returned the cheque and the draft. It is submitted that the appointment of the workman was purely on a contract basis and he was not a permanent employee of the management. It is submitted that section 2(oo) of the Industrial Disputes Act are not applicable to the workman's termination. It is averred that the workman is not entitled to any reliefs.

7. The workman filed a rejoinder at Exhibit-9. He pleaded that he never agreed for accepting his final dues and never abandoned his claim and right to reinstatement in service. He reiterated the contention in the claim statement.

8. The issues are framed at Exhibit-10. The issues and my findings there on are as follows :—

Issues	Findings
1. Whether the workman was in continuous service as alleged ?	Yes.
2. Whether the workman was employed for a specific period ?	Yes, but it was a continuous appointment from time to time.
3. Whether the action of the management in terminating the services of Shri Vijay Govind Gamare is legal and justified ?	No.
4. If not, to what relief the workman is entitled to ?	As per the order.

REASONS

9. Vijay Govind Gamare (Ex-15) the workman affirmed that he was appointed by the management on 20-12-90. He was continuously serving the management till his termination 16-7-94. This is corroborated by Smriti Verma (Ex-17) Dy. Finance Advisor and Chief Accounts Officer of the management. This is also supported by various appointment orders which are produced on the record alongwith Exhibit-12. It is therefore it has to be said that he is in continuous service as contemplated under section 25(B) of the I.D. Act of 1947.

10. The workman was appointed as an unskilled labour by a letter dtd. 30-11-90 (Exhibit-12|1). This appointment was for six months. It appears that after one years continuous service on 20-12-91, he was given a scale of Rs. 750-940 by a letter dt. 4-3-92 (Ex-12|2). Exhibit-12|3 is an office order dtd. 22-7-93 by which workmans contract service period was extended to 19-12-93. Again by office order dtd. 31-12-93 (Ex-12|4) the service period of the workman was extended up to 19-12-94. On the basis of these letters it is argued on behalf of the management that the appointment was for a specific period and it stipulates termination with one months notice. There is no dispute that the terms and conditions in the appointment letter was accepted by the workman when he joined the service.

11. Mr. Sawant, the Learned Advorate for the workman argued that the workman is to be considered as an employee of Konkan Railway as per the definition of the word employee in Konkan

Railway Corporation Ltd. discipline and appeal rules. It defines employee means a person in the employment undertaking other than the casual, work-charge or contingent staff but includes the person on deputation to the Corporation. The workman herein is not a casual since he has been appointed in the pay scale of Rs. 750-940 which is the pay scale of the permanent employee of Gr. D in KRCL. The appointment letters|office orders of the management which I have already referred above contemplates that the worker is entitled to other allowances admissible to contractual appointees under the rules of the corporation. Further the workman will be governed by all other service conditions as per the rules/instruction of the Corporation. It is therefore, he is to be considered to be an employee of the management. I find merit in it. It is not because of this but it can be also seen that he is given the yearly increment and he is also member of Provident Fund of the KRCL. His pay scale is of that of Grade D employee.

12. It is tried to argue on behalf of the management that, as per the contract letter one months notice was given to the workman therefore the termination is valid. The termination notice dtd. 9-6-94 is at Ex-12|6. It is mentioned therein that the workman is in habit of remaining absent without informing and getting the leave sanctioned from proper authority and his work is not satisfactory. He was given one months notice for termination of his service as per the contract agreement.

13. The KRCL discipline and appeal rules which gives a list of misconduct is rule No. 5 does not say that 'not satisfactory' is misconduct. Rule 10(1) of the said rules stipulates that no order of imposing any of the major penalty specified in clause f, g, h, i of the rule 8 shall be made except after an inquiry is held in accordance with this rule. Terminating an employee from the service is a major penalty as per the Rule 8(h). Admittedly in the present case there was no inquiry.

14. Mr. Sawant, the Learned Advocate for the management argued that the appointment of a workman is an adhoc appointment and is for limited purpose. It comes to an end after the expiry of period. To substantiate this contention he placed reliance on Director, Institute of Management Development Vs. Pushpa Srivastava 1993 1 LLB 190. That was a case wherein Pushpa Srivastava was appointed on ad hoc basis after some extension of time she sent a resignation which was accepted. Then she again made a request for fresh appointment. In that case there was a demand for regularisation. Here in the present case it is to be seen whether the termination is proper or not. The case of regularisation is outside the scope of the reference. The workman in this case has challenged the termination on the basis of the provision of the Industrial Disputes Act of 1947. From the perusal of the termination letter it reveals that the scr-

vices of the workman were not said to be terminated due to influx of time but it is specifically mentioned in the letter that his services were not satisfactory and he remained absent. Mrs. Samant the Learned Advocate of the management also relied upon UTI Vs. T. Vijay Kumar 1993 1 LLJ 240. That was a case where workman was terminated when he was in probation. In the reported case the impugned order has not shown any thing which would amount to stigma. In the present case the impugned order specifically states that the services are not satisfactory. It is stigma. Further more the workman was not on probation therefore the ratio in the said authority has no application.

15. Mr. Sawant, the Learned Advocate for the workman argued that the workman is in continuous service. The Konkan Railway being a instrumentality of the Government an employee of the same cannot be terminated on the ground that the workman herein is bound by contract which is a clause that is binding for a specific period. To substantiate this he placed reliance on Modern Food Industries Ltd. V/s. M. D. Juvekar 1988(II) LLJ 534. That was a case wherein Their Lordships observed that if a contract or a clause of a contract is a result of the weaker bargaining power of the employee who being jobless has no option but to accept the terms on which the job is offered, such a contract or a clause in the contract can only be regarded as unreasonable, unconcernable, unfair and lacking in nullifying and therefore opposed to public policy within the meaning of section 23 of the Contract Act. This ruling supports the case of the workman. The action of the Konkan Railway who has entered into an unreasonable and unfair contract cannot be approved. From the evidence of the management witness it reveals that the nature of the work which the workman was doing is still in existence. Therefore there is no jurisdiction in terminating the service of the workman.

16. In Madhya Pradesh Ban Karmachari Sangh V/s. Syndicate Bank 1996 LAB I.C. 1161, Their Lordships observed 'The provision of section 2(oo) (bb) are to be construed benevolently in favour of the workman. They are not to be interpreted in the manner which may stifle the main provision. If the workman is allowed to continue in service by making periodic appointments from time to time, then it can be said that the case would not fall under section 2(oo) (bb). If the workman continues in service, the non renewal of the contract can be deemed as malafide and it may amount to fraud on statute. There would be wrong presumption of non-applicability of section 2(oo) (bb) where the work is of continuous nature and there is nothing on record that the work for which a workman has been appointed has come to an end.'

17. Admittedly, while terminating the services no procedure contemplated for the retrenchment was followed by the management. In fact, the record

shows that at the time of conciliation the management offered to make the payment of the dues which were to be paid but the workman refused to accept the cheque and demand draft and insisted upon his right of reemployment. There is no justification for the termination of the workman. I do not find any leagility in the same.

18. After coming to the abovesaid conclusion while reinstating the workman it is to be seen whether he is entitled to full back wages namely (Exhibit-15) the workman in his cross examination admits that he gets Rs. 30 per day. It means that he gets Rs. 900 per month. Obviously, while awarding the back wages this amount has to be reduced per month. In the result I record my findings on the issues accordingly and pass the following order :—

ORDER

The action of the management in terminating Vijay Govind Gamaro unskilled labourer/helper w.e.f. 16-7-94 is not legal and not justified.

The management is directed to reinstate him in continuity.

The management to pay him back wages from 16-7-94 deducting Rs. 900 per month.

S. B. PANSE, Presiding Officer

नई दिल्ली, 22 सितम्बर, 1999

का. आ. 2833.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अन्वय में, एतद्वारा श्रम मंत्रालय के अधीन निम्नलिखित सम्बद्ध/अधीनस्थ स्वायत्त निकाय के क्षेत्रीय एवं उप क्षेत्रीय कार्यालयों को अधिसूचित करती है।

(1) कारखाना सलाह सेवा और श्रम संस्थान महानिदेशालय, मुंबई के अधीन निम्नलिखित संस्थान को —

केन्द्रीय श्रम संस्थान, मुंबई।

(2) खान सुरक्षा महानिदेशालय, धनबाद के अधीन निम्नलिखित क्षेत्रीय तथा उप क्षेत्रीय कार्यालयों को —

1. खान सुरक्षा उप महानिदेशक, धनबाद का कार्यालय, दक्षिण पूर्वी अंचल, रांची क्षेत्र, रांची
2. खान सुरक्षा निदेशक का कार्यालय, रांची क्षेत्र, रांची।
3. खान सुरक्षा निदेशक का कार्यालय, कोडरमा क्षेत्र, कोडरमा।
4. खान सुरक्षा निदेशक का कार्यालय, चाईबासा क्षेत्र, पश्चिम सिंहभूम।

5. खान सुरक्षा उप निदेशक का कार्यालय,
रामगढ़ उप क्षेत्र, हजारीबाग।

(3) कर्मचारी भविष्य निधि संगठन (केन्द्रीय कार्यालय),
नई दिल्ली के अधीन निम्नलिखित उप क्षेत्रीय
कार्यालयों को —

1. उप क्षेत्रीय भविष्य निधि आयुक्त का
कार्यालय, भोपाल।

2. उप क्षेत्रीय भविष्य निधि आयुक्त का
कार्यालय, बालियर।

3. उप क्षेत्रीय भविष्य निधि आयुक्त का
कार्यालय, तिरुवनन्तपुरम।

4. उप क्षेत्रीय भविष्य निधि आयुक्त का
कार्यालय, उज्जैन।

5. उप क्षेत्रीय भविष्य निधि आयुक्त का
कार्यालय, जोधपुर।

[फा. सं. ई-11011/1/93-रा. भा. नी.]
डा. प्रफुल्ला केरकेट्टा, उप सचिव

New Delhi, the 22nd September, 1999

S.O.2833—In pursuance of sub rule (4) of rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following regional/sub regional offices of attached/subordinate and autonomous offices of the Ministry of Labour.

I. Directorate General Factory Advice Service and Labour Institutes, Mumbai:
Central Labour Institute, Mumbai.

II. Directorate General of Mines Safety, Dhanbad.

1. Office of the Deputy Director General Mines Safety, South East Zone, Ranchi Region, Ranchi.

2. Office of the Director, Mines Safety, Ranchi Region, Ranchi.

3. Office of the Director, Mines Safety, Kodarma Region, Kodarma.

4. Office of the Director Mines Safety, Chaibasa Region, Singhbhum West.

5. Office of the Deputy Director, Mines Safety, Ramgarh Sub-Region, Hazaribagh.

III. Employees Provident Fund Organisation (Central Office) New Delhi.

1. Office of the Sub regional Provident Fund Commissioner Bhopal.

2. Office of the Sub regional Provident Fund Commissioner, Gwalior.

3. Office of Sub regional Provident Fund Commissioner, Thiruvannanthapuram.

4/ Office of Sub regional Provident Fund Commissioner, Ujjain.

5. Office of Provident Fund Commissioner, Jodhpur.

[File No. E-11011/1/93-RBN]

DR. PRAFULLA KARKETTA, Dy. Secy.

नई दिल्ली, 22 सितम्बर, 1999

का. आ. 2834.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप नियम (4) के अनुसरण में, श्रम मंत्रालय के अधीन कारखाना सलाह सेवा और श्रम संस्थान महानिदेशालय, मुंबई के निम्नलिखित क्षेत्रीय कार्यालयों को एतद्वारा अधिसूचित करती है :—

1. गोदी सुरक्षा निरीक्षणालय, मुंबई।

2. गोदी सुरक्षा निरीक्षणालय, कोचीन।

3. गोदी सुरक्षा निरीक्षणालय, कांडला पोर्ट।

4. गोदी सुरक्षा निरीक्षणालय, नव मंगलूर।

5. गोदी सुरक्षा निरीक्षणालय, डोडिशा।

6. क्षेत्रीय श्रम संस्थान, कानपुर।

7. गोदी सुरक्षा निरीक्षणालय, विशाखापट्टनम।

[फा. सं. ई-11011/1/93-रा. भा. नी.]

डा. प्रफुल्ला केरकेट्टा, उप सचिव

New Delhi, the 22nd September, 1999

S.O. 2834 —In pursuance of sub rule of (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules 1976, the Central Government hereby notifies the following Regional offices of Directorate General Factory Advice Service and Labour Institutes Mumbai.

1. Dockyard Safety Inspectorate, Mumbai.

2. Dockyard Safety Inspectorate, Kochin.

3. Dockyard Safety Inspectorate, Kandla Port.

4. Dockyard Safety Inspectorate, New Manglur.

5. Dockyard Safety Inspectorate, Dodisha.

6. Regional Labour Institute, Kanpur.

7. Dockyard Safety Inspectorate, Vishakhapatnam.

[F.No.E-11011/1/93-RBN]

DR. PRAFULLA KARKETTA, Dy. Secy.